

***United States Court of Appeals
for the Second Circuit***



APPENDIX

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OF SERVICE

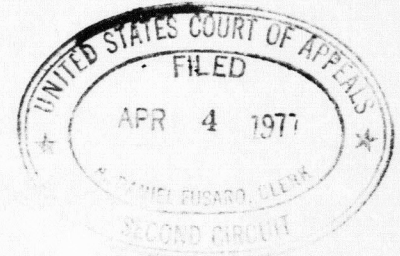
77-6022

UNITED STATES COURT OF APPEALS

Vol. II

for the

SECOND CIRCUIT



UNITED STATES OF AMERICA,

Plaintiff-Appellee, B

by Dorothy S. Greenberg, for herself as well as for the
United States of America,

Plaintiff-Relator-Appellant, P/S

-against-

THE BURMAH OIL COMPANY LIMITED, BURMAH OIL INCORPORATED, BURMAH OIL TANKERS LIMITED, BETHEL MARINE, INC., SOUTHHOLD MARINE, INC., VERMONT MARINE, INC., BURMAST EAST SHIPPING CORP., BURMAH GAS TRANSPORTATION LIMITED, ELIAS J. KULUKUNDIS, SUMMITT MARINE OPERATIONS, INC., SUMMIT I INC., SUMMITT II, INC., SUMMITT III, INC., CHEROKEE I SHIPPING CORPORATION, CHEROKEE II SHIPPING CORPORATION, CHEROKEE III SHIPPING CORPORATION, CHEROKEE IV SHIPPING CORPORATION, CHEROKEE V SHIPPING CORPORATION, ENERGY TRANSPORTATION CORPORATION, C. Y. CHEN, JOSEPH J. CUNEO, JEROME SHELBY, CRYOGENIC ENERGY TRANSPORT, INC., LNG TRANSPORT INC., LIQUEGAS TRANSPORT INC., JAMES DURBIN, JOHN C. BULLITT, FIRST NATIONAL CITY BANK, CITICORP LEASING, INC., GENERAL AMERICAN TRANSPORTATION CORP., GENERAL DYNAMICS CORPORATION, CITIMARLEASE (BURMAH I), INC., CITIMARLEASE (BURMAH LNG CARRIER), INC., CITIMARLEASE (BURMAH LIQUEGAS), INC. and CITICORP.,

Defendants-Appellees.

On Appeal from an Order and Final Judgment of the
United States District Court for the Southern District of New York

JOINT APPENDIX

(Volume II of II - Pages A-280 - A-584)

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INDEX

	<u>Page</u>
DOCKET ENTRIES	A-1
VERIFIED COMPLAINT	A-4
SCHEDULE A TO COMPLAINT - STATEMENT OF DISCLOSURES ON BEHALF OF DOROTHY S. GREENBERG PURSUANT TO SECTION 232(C) OF TITLE 31 OF THE UNITED STATES CODE	A-28
ITEM 1 OF SCHEDULE A TO COMPLAINT - UNDATED INTERNAL MEMORANDUM FROM FILES OF BURMAH OIL COMPANY LIMITED	A-30
ITEM 2 OF SCHEDULE A TO COMPLAINT - MEMORANDUM DATED MAY 12, 1975 FROM RICHARD W. KURRUS TO JOHN J. McMULLEN	A-47
ITEM 3 OF SCHEDULE A TO COMPLAINT - CONFIDENTIAL MEMORANDUM DATED AUGUST 21, 1975 FROM RICHARD W. KURRUS TO JOHN J. McMULLEN	A-50
ITEM 4 OF SCHEDULE A TO COMPLAINT - MEMORANDUM OF LAW FOR BURMAH OIL TANKERS LIMITED DATED SEPTEMBER 16, 1975	A-55
ITEM 5(a) OF SCHEDULE A TO COMPLAINT - COMPLAINT IN ACTION IN SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF NEW YORK, ENTITLED <u>BURMAH OIL v. KULUKUNDIS, ET AL.</u>	A-125
ITEM 5(b) OF SCHEDULE A TO COMPLAINT - COMPLAINT IN ACTION IN SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF NEW YORK, ENTITLED <u>BURMAH OIL v. ENERGY TRANSPORTATION, ET AL.</u>	A-144
ITEM 6 OF SCHEDULE A TO COMPLAINT - FOLDER ENTITLED "NEWS RELEASES"	A-155

INDEX

	<u>Page</u>
ITEM 7 OF SCHEDULE A TO COMPLAINT - MEMORANDUM OF LAW TO DR. JOHN J. McMULLEN FROM SEYMOUR & PATTEN RE NEW YORK LAW OF DIRECTORS' SELF- DEALING (L. PADRON AND ONG MATTERS)	A-229
ITEM 8(a) OF SCHEDULE A TO COMPLAINT - MEMORANDUM DATED JULY 28, 1975 RE INTERVIEW WITH ELIAS J. KULUKUNDIS	A-242
ITEM 8(b) OF SCHEDULE A TO COMPLAINT - MEMORANDUM DATED NOVEMBER 14, 1975 ENTITLED INTERVIEW WITH N.J.D. WILLIAMS	A-251
NOTICE OF SPECIAL APPEARANCE AND OF MOTION TO DISMISS	A-263
AFFIDAVIT OF SAMUEL B. NEMIROW, FOR GOVERN- MENT, IN SUPPORT OF MOTION	A-264
EXHIBIT 1 TO NEMIROW AFFIDAVIT - ORIGINAL APPLICATION OF CRYOGENIC ENERGY TRANSPORT, INC. FOR CONSTRUCTION-DIFFERENTIAL SUBSIDY	A-280
EXHIBIT 2 TO NEMIROW AFFIDAVIT - AMENDMENT TO APPLICATION FOR CONSTRUCTION-DIFFERENTIAL SUBSIDY DATED AUGUST 31, 1972	A-305
EXHIBIT 3 TO NEMIROW AFFIDAVIT - AMENDMENT TO APPLICATION FOR CONSTRUCTION-DIFFERENTIAL SUBSIDY DATED SEPTEMBER 15, 1972	A-320
EXHIBIT 4 TO NEMIROW AFFIDAVIT - AMENDMENT TO APPLICATION FOR CONSTRUCTION-DIFFERENTIAL SUBSIDY DATED SEPTEMBER 20, 1972	A-326
EXHIBIT 5 TO NEMIROW AFFIDAVIT - ORIGINAL APPLICATION OF LNG TRANSPORT, INC. FOR TITLE XI GUARANTEES	A-331

INDEX

	<u>Page</u>
EXHIBIT 6 TO NEMIROW AFFIDAVIT - AMENDMENT TO APPLICATION FOR TITLE XI GUARANTEES DATED SEPTEMBER 15, 1972	A-370
EXHIBIT 7 TO NEMIROW AFFIDAVIT - AMENDMENT TO APPLICATION FOR TITLE XI GUARANTEES DATED SEPTEMBER 20, 1972	A-379
EXHIBIT 8 TO NEMIROW AFFIDAVIT - LETTER FROM MAR AD TO THE CRYOGENIC CORPORATIONS DATED SEPTEMBER 22, 1972	A-384
EXHIBIT 9 TO NEMIROW AFFIDAVIT - AMENDED APPLICATION OF CHEROKEE II DATED OCTOBER 11, 1973	A-389
EXHIBIT 10 TO NEMIROW AFFIDAVIT - LETTER FROM MAR AD TO CHEROKEE I THROUGH CHEROKEE IV DATED NOVEMBER 7, 1973	A-456
EXHIBIT 11 TO NEMIROW AFFIDAVIT - AMENDMENT TO APPLICATIONS OF CHEROKEE I THROUGH CHEROKEE V, JOINED BY GENERAL DYNAMICS CORPORATION, DATED AUGUST 27, 1976	A-463
EXHIBIT 12 TO NEMIROW AFFIDAVIT - LETTERS FROM BURMAH TO MAR AD AND ENERGY	A-473
EXHIBIT 13 TO NEMIROW AFFIDAVIT - LETTER FROM ROBERT J. BLACKWELL, ASSISTANT SECRETARY FOR MARITIME AFFAIRS, TO ENERGY DATED MAY 1, 1975	A-480
EXHIBIT 14 TO NEMIROW AFFIDAVIT - DEPARTMENT OF JUSTICE OPINION	A-481
EXHIBIT 15 TO NEMIROW AFFIDAVIT - COPIES OF LETTERS APPEARING IN THE CONGRESSIONAL RECORD ON MAY 25, 1976	A-489
AFFIDAVIT OF CHARLES FRANKLIN RICHTER, FOR GOVERNMENT, IN SUPPORT OF MOTION	A-492

INDEX

	<u>Page</u>
EXHIBIT 1 TO RICHTER AFFIDAVIT - LETTER FROM CHAIRMAN OF COMMITTEE ON GOVERNMENT OPERA- TIONS OF U.S. HOUSE OF REPRESENTATIVES TO U.S. ATTORNEY ROBERT B. FISKE, JR. DATED NOVEMBER 29, 1976	A-494
AFFIDAVIT OF CALVIN B. KURIMAI, FOR GOVERNMENT, IN SUPPORT OF MOTION	A-496
EXHIBIT TO KURIMAI AFFIDAVIT - NEW YORK TIMES ARTICLES	A-498
EXHIBIT TO KURIMAI AFFIDAVIT - COPIES OF LET- TERS APPEARING IN THE CONGRESSIONAL RECORD ON MAY 25, 1976 (reproduced herein at pages A-489 - A-491)	A-500
AFFIDAVIT OF GEORGE A. FITZSIMMONS, FOR GOVERN- MENT, IN SUPPORT OF MOTION	A-501
AFFIDAVIT OF RICHARD B. DANNENBERG, ESQ., FOR RELATOR, IN OPPOSITION TO MOTION	A-503
EXHIBIT 1 TO DANNENBERG AFFIDAVIT - COMPLAINT (reproduced herein at pages A-4 - A-27)	A-513
EXHIBIT 2 TO DANNENBERG AFFIDAVIT - SCHEDULE A TO COMPLAINT (reproduced herein at pages A-28 - A-29)	A-519
EXHIBIT 3 TO DANNENBERG AFFIDAVIT - MEMORAN- DUM DATED MAY 12, 1975 FROM RICHARD W. KURRUS TO JOHN J. McMULLEN (reproduced herein at pages A-47 - A-49)	A-520
EXHIBIT 4 TO DANNENBERG AFFIDAVIT - CONFIDEN- TIAL MEMORANDUM DATED AUGUST 21, 1975 FROM RICHARD W. KURRUS TO JOHN J. McMULLEN (repro- duced herein at pages A-50 - A-54)	A-521

INDEX

	<u>Page</u>
EXHIBIT 5A TO DANNENBERG AFFIDAVIT - LETTER DATED OCTOBER 7, 1976 (OR OCTOBER 8, 1976) FROM RICHARD L. THORNBURGH, ASSISTANT ATTORNEY GENERAL, TO CONGRESSMAN ASPIN	A-522
EXHIBIT 5B TO DANNENBERG AFFIDAVIT - LETTER DATED OCTOBER 2, 1976 FROM CONGRESSMAN LES ASPIN TO HON. ELLIOT RICHARDSON, SECRETARY OF DEPARTMENT OF COMMERCE and LETTER DATED NOVEMBER 17, 1976 FROM SECRETARY RICHARDSON TO CONGRESSMAN LES ASPIN	A-523
EXHIBIT 6 TO DANNENBERG AFFIDAVIT - AFFIDAVIT OF CITIZENSHIP BY DEFENDANT JOHN C. BULLITT SWORN TO AUGUST 8, 1973	A-537
EXHIBIT 7 TO DANNENBERG AFFIDAVIT - CERTIFICATION EXECUTED BY DEFENDANT JOHN C. BULLITT ON INITIAL APPLICATION OF EACH OF CHEROKEE COMPANIES	A-541
EXHIBIT 8 TO DANNENBERG AFFIDAVIT - LETTER DATED AUGUST 23, 1972 FROM DEFENDANT GENERAL DYNAMICS CORPORATION TO LIQUEGAS TRANSPORT, INC., ACCEPTED & APPROVED BY DURBIN, COMMITTING TO EXECUTION OF VESSEL CONSTRUCTION CONTRACT	A-542
EXHIBIT 9 TO DANNENBERG AFFIDAVIT - CERTIFICATION EXECUTED BY DEFENDANT JAMES DURBIN ON PRE-SEPTEMBER 15, 1972 APPLICATIONS OF EACH OF CRYOGENIC COMPANIES	A-544
EXHIBIT 10 TO DANNENBERG AFFIDAVIT - UNCONDITIONAL GUARANTEE OF DEFENDANT BURMAH OIL COMPANY, LIMITED TO MAR AD DATED SEPTEMBER 28, 1972	A-545
EXHIBIT 11 TO DANNENBERG AFFIDAVIT - FINANCIAL STATEMENT OF BURMAH OIL COMPANY LTD. FOR SIX MONTHS ENDED JUNE 30, 1976	A-547

INDEX

	<u>Page</u>
SUPPLEMENTAL AFFIDAVIT OF RICHARD B. DANNENBERG, ESQ., FOR RELATOR, IN OPPOSITION TO MOTION	A-551
EXHIBIT 12 TO DANNENBERG SUPPLEMENTAL AFFI- DAVIT - DOCUMENT DATED MAY 29, 1975 ENTITLED "A PROPOSAL TO JAPAN LINE, LTD. FOR THE FOR- MATION OF A TRANSPORTATION JOINT VENTURE OF LIQUIFIED NATURAL GAS"	A-553
REPLY AFFIDAVIT OF CHARLES FRANKLIN RICHTER, FOR GOVERNMENT, IN SUPPORT OF MOTION	A-572
MEMORANDUM AND ORDER OF JUDGE WHITMAN KNAPP DATED DECEMBER 22, 1976	A-575
ORDER AND JUDGMENT APPEALED FROM	A-580
NOTICE OF APPEAL	A-582

PAGINATION AS IN ORIGINAL COPY

EXHIBIT 1 TO NEMIROW AFFIDAVIT - ORIGINAL APPLICATION OF
CRYOGENIC ENERGY TRANSPORT, INC. FOR CONSTRUCTION-
DIFFERENTIAL SUBSIDY

SHEARMAN & STERLING

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23, RUE ROYALE
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"NUMLATUS PARIS"
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July 14, 1972

Federal Maritime Board
Washington, D. C. 20573

Re: Three (3) Applications under
Sec. 501 (a) of the Merchant
Marine Act, 1936, as amended
for Construction-Differential
Subsidies

Dear Sirs:

On behalf of each of the following corporations:

Cryogenic Energy Transport, Inc.
Liquegas Transport, Inc., and
LNG Transport, Inc.

we herewith file, in triplicate, an original, executed, and
verified Application (including Exhibits B through H, Exhibits
I and II, and Schedule I, each attached thereto) dated July 14,
1972 under Sec. 501 (a) of the Merchant Marine Act, 1936, as
amended for a construction-differential subsidy in respect of
an LNG tanker vessel having a capacity of approximately
125,000 cubic meters of liquefied natural gas and an approximate
service speed of 19 knots.

In addition, in accordance with "Instructions as to
preparation of Application Form FMB-8", there are submitted
herewith twelve (12) conformed copies of each of the aforesaid
Applications exclusive of Exhibits or Schedules, as well as
fifteen (15) extra copies of Schedule I.

Also submitted herewith are nine (9) copies of a General
Dynamics Corporation drawing (No. L25-N-001) showing the general
arrangement and profile of the Vessels.

A-281

Should you have any comments or questions regarding any of the enclosures, please do not hesitate to call (collect) Carl Davis, Esq., of Alvord and Alvord, Washington (Tel. Executive 3-2266), Eli Ellis, Esq., of Hill, Betts & Nash, New York City (Tel. 212-269-2100), or the undersigned (Tel. 212-483-1000).

Very truly yours,

A handwritten signature in dark ink, appearing to read "Hans H. Angermueller", with a stylized, flowing script.

Hans H. Angermueller

Enclosures

APPLICATION UNDER TITLE V
OF THE MERCHANT MARINE ACT OF 1970
FOR A CONSTRUCTION - DIFFERENTIAL SUBSIDY

Introduction

Cryogenic Energy Transport, Inc. (herein called the "Applicant") hereby applies to the Federal Maritime Board under Section 501(a) of the Merchant Marine Act of 1936, as amended (the "Act"), for a construction-differential subsidy to aid in the construction of an LNG tanker vessel of approximately 125,000 cubic meters LNG capacity, 94,600 tons full load displacement, 63,600 deadweight tons, approximately 19 knots speed (the "Vessel") to be used in the foreign commerce of the United States, as hereinafter set forth, and submits in support of its application the following information.

This is an application under Section 501(a) of the Act for a construction-differential subsidy to aid in the construction of the Vessel. It is proposed that, upon completion of the construction of the Vessel, the Vessel will be used for the transportation of liquefied natural gas to the United States pursuant to a Transportation Agreement dated as of June 26, 1972 (the "Transportation Agreement") between Burmah Oil Tankers Limited, a Bermuda corporation ("BOT") and Public Service Electric & Gas Company and Algonquin Gas Transmission Company, respectively New Jersey and Delaware corporations (the "Shippers").

The performance of BOT's obligations under the Transportation Agreement is guaranteed by Burmah Oil Company Limited, a United Kingdom corporation which is BOT's parent ("Burmah"). The Vessel will be primarily operated between Skikda, Algeria, the loading port, and New York Harbor and Narragansett Bay, Rhode Island, the ports of discharge.

The Vessel is one of three substantially identical LNG tanker vessels (collectively, the "Vessels") which are required to perform BOT's obligations under the Transportation Agreement. Concurrently with the filing of this application, two substantially similar applications under Title V of the Act for construction-differential subsidies are being filed by Liquegas Transport, Inc. and LNG Transport, Inc., affiliates of the Applicant (the "Other Applicants" and, together with the Applicant, collectively, the "Applicants"), with respect to the other two Vessels.

It is contemplated that the Vessels will be constructed, delivered, chartered, and employed under the Transportation Agreement pursuant to the following arrangements:

- (a) Each Applicant will, as promptly as practicable, enter into a Contract (the applicable "Construction Contract") with General Dynamics Corporation (the "Builder") for the construction at the Builder's Quincy, Massachusetts shipyard (the "Yard") of the Vessel in respect of which

it has filed its application under Title V of the Act. The Construction Contract is presently under negotiation and is subject to the granting of the construction-differential subsidy in respect of which the Applicant has filed its application therefor. Copies of the Construction Contracts will, promptly after their execution, be filed as supplements to such applications.

- (b) Prior to the delivery of each Vessel: (i) a limited partnership* will be formed under the laws of Delaware (the "Owner") with one or more institutional corporate owner participants (the "Equity Investors"), each of whom will qualify as a U. S. citizen within the meaning of Section 2 of the Shipping Act, 1916, as amended; (ii) the Equity Investor who will be the general partner of the Owner (the "General Partner") will acquire all of the outstanding stock of the Applicant in respect of such Vessel, merge such Applicant into itself, and assign and contribute the Construction Contract (as well as the below described Bareboat Charter) in respect of such Vessel to the Owner; (iii) the Equity Investors, as a group, will invest in the Owner at least 25% of the total actual

* It is possible that the final legal form of the owner entity may be other than a limited partnership (for example, a Trust) but such other entity would be treated for tax purposes as a partnership.

delivered, capitalized cost (the "Cost") of the Vessel to be acquired by such Owner; and (iv) substantially all of the balance of the Cost of the Vessel will be financed by the issuance and public or private sale, through investment bankers of recognized standing, of long-term Bonds; the principal and interest of which is to be insured under Title XI of the Act. An application for such Title XI insurance will shortly be filed with the United States Maritime Administrator by the Applicant in respect of such Vessel.

- (c) Upon delivery of each Vessel by the Builder to the applicable Owner, the Owner will register the same under the laws and flag of the United States and, subject to having obtained prior approval of the United States Maritime Administration of the chartering arrangements hereinafter described, such Owner will deliver such Vessel under a previously executed and approved bareboat charter having a 20-year basic term with options to extend for four (4) additional five-year periods (the "Bareboat Charter") to Summit Marine Operations, Inc., a Delaware corporation (the "Operator"), up to 49% of whose capital stock may be owned by Burmah or a subsidiary thereof, but which is (and will, so long as the below-mentioned Time Charter is in effect, remain)

a U. S. citizen within the meaning of Section 2 of the Shipping Act, 1916. Concurrently with the delivery of the Vessel to the Operator, the Operator will deliver the Vessel for service under a previously executed and approved time charter, having the same basic term and extension options as the Bareboat Charter as well as certain bareboat charter features relating to hire (the "Time Charter") to BOT. The form of Bareboat Charter in respect of the Vessel which is to be entered into between the Applicant and the Operator as well as the form of Time Charter in respect of all three Vessels which is to be entered into between the Operator and BOT are presently being negotiated and drafted. Copies thereof, as approved by the Maritime Administration and as executed by the applicable parties will be filed as supplements to this application.

- (d) BOT proposes to utilize the Vessels so time chartered to it in the performance of the Transportation Agreement.

(A copy of the Transportation Agreement between BOT and the Shippers is herewith filed as Confidential Exhibit B).

It is believed that this application and the two related applications should be granted for the following principal reasons:

- 1) Construction and operation of the Vessels will assist in the development of a new shipping capability for United States-flag vessels in foreign commerce.
- 2) Construction and operation of the Vessels will assist in alleviating the increasingly acute United States energy shortage through the importation of foreign natural gas.
- 3) Construction of the Vessels in the United States will offset in substantial part the adverse U. S. balance of payments effect of being compelled to import foreign natural gas.
- 4) Construction of the Vessels in the United States will lead to development of a domestic ship construction technology which, to date, has been virtually entirely developed by foreign shipyards.

A. Citizenship and Affiliations*

(i) Of the Applicant:

1. The name of the Applicant is Cryogenic Energy Transport, Inc.
2. Form of organization - corporation.
3. The Applicant was incorporated under the laws of the State of Delaware on July 12, 1972.
4. The principal executive office of the Applicant is 1345 Avenue of Americas, New York, New York.
5. The Applicant, each Other Applicant, and the Operator are, at the present time, each under the common control of Mr. James H. Durbin, the sole stockholder and a Director of the Applicant. Mr. Durbin and Mr. Hans H. Angermueller, another Director and the holder of an option to purchase at cost from Mr. Durbin his holdings in the Applicant, have each undertaken to offer the Applicant's stock, at cost, to the General Partner of the Owner in order to effectuate the ultimate financing of the Vessel as hereinbefore set forth.

* In view of the limited activities of the Applicant (see item 9 in Part B(i) below) Parts A, B and C of this application will contain responses to each item thereof with respect to the Operator, as well as the Applicant.

6. Name and Address	Office	Nation-ality	Shares Owned
James H. Durbin 51 Cypress Lane Briarcliff Manor, N. Y.	President/ Director	U.S.A.	1,000
Hans H. Angermueller 1 Surrey Road Summit, N. J.	Secretary/ Director	U.S.A.	0
Alvin E. Friedman 176 Herlock Road Manhasset, N. Y.	Treasurer/ Director	U.S.A.	0

The total capitalization of the Applicant is
1,000 common shares.

7. Not applicable.

8. Not applicable.

(ii) Of the Operator:

1. The name of the Operator is Summit Marine Operations, Inc.
2. Form of organization - corporation.
3. The Operator was incorporated under the laws of the State of Delaware on July 12, 1972.
4. The principal executive office of the Operator is 1345 Avenue of the Americas, New York, New York.

5. The Operator and each Applicant are at the present time under the common control of Mr. James H. Durbin, the sole stockholder and a Director of the Operator. Burmah or its designee has the option to purchase at cost from Mr. Durbin up to 49% of the Operator's capital stock and Mr. Angermueller or his designee or designees (each of which designees of Mr. Angermueller must be a U. S. citizen within the meaning of Section 2 of the Shipping Act, 1916, as amended, and approved by Burmah) have the option to purchase at cost from Mr. Durbin the remaining 51% of the capital stock of the Operator.

6. Name and Address	Office	Nationality	Shares Owned
James H. Durbin 51 Cypress Lane Briarcliff Manor, N. Y.	President/ Director	U.S.A.	1,000
Hans H. Angermueller 1 Surrey Road Summit, N. J.	Secretary/ Director	U.S.A.	0
Alvin E. Friedman 176 Hemlock Road Manhasset, N. Y.	Treasurer/ Director	U.S.A.	0

The total capitalization of the Operator consists of one class of 1,000 common shares, each of which shares has one vote and a par value of \$1.00.

7. Not applicable.

8. Not applicable.

B. Business**(i) Of the Applicant:**

9. The Applicant was organized on July 12, 1972 for the following purposes:

- (a) To enter into the Construction Contract, the Bareboat Charter, the Construction Financing Agreement (hereinafter described);
- (b) To make applications (including this application) to the appropriate governmental agencies with respect to the construction, chartering and financing of the Vessel;
- (c) Prior to delivery of the Vessel, to merge with and into the General Partner of the Owner; and
- (d) to do such other acts and things as may be necessary or advisable to accomplish the foregoing.

- 10. The Applicant owns no tangible property.
- 11. The Applicant does not presently own any vessels.
- 12. The Applicant does not presently charter any vessels; however, the Applicant and the Operator propose to enter into the Bareboat Charter with respect to the Vessel as above described.

13. Not applicable.
14. Not applicable
15. Not applicable.
16. The Vessel will be used to transport cargoes of liquefied natural gas from Skikda, Algeria, the loading port, to New York Harbor and Narragansett Bay, Rhode Island, the discharge ports, pursuant to the Transportation Agreement (Confidential Exhibit B). During periods of Force Majeure (as defined in the Transportation Agreement), the Vessel may, under certain circumstances, be used in other trades.
17. Not applicable.

(ii) Of the Operator:

9. The Operator was organized on July 12, 1972 for, among others, the following purposes:
 - (a) To enter into the Bareboat Charters and the Time Charter and operate the Vessels covered thereby;
 - (b) To make applications to the appropriate governmental agencies with respect to the chartering of the Vessels; and
 - (c) to do such other acts and things as may be necessary or advisable to accomplish the foregoing.

10. The Applicant owns no tangible property.
11. The Operator does not own any vessels.
12. The Operator does not presently charter any vessels; however, the Operator proposes to enter into the Bareboat Charters with the three Applicants and the Time Charter with BOT.
13. Not applicable.
14. Not applicable.
15. Not applicable
16. See the response to item 16 in Part B(i) above.
17. Not applicable.

C. Management

(i) Of the Applicant:

18. (a) A brief resume of each officer and director of the Applicant is submitted herewith:

James H. Durbin - President and Director

Mr. Durbin's principal business affiliations during the past five years and at present are as follows:

- (i) Has since its inception in November, 1970 been, and presently is, Chairman of the Board of Directors of BOT;
- (ii) Since 1968 has been, and presently is, the President and a Director of Burmah Oil, Inc., a wholly owned U. S. (Delaware) subsidiary of Burmah;
- (iii) Has since its inception been, and presently is, Chairman of the Board of Edwin Cooper, Inc. a wholly owned subsidiary of Burmah Oil, Inc.

- (iv) From its inception until during 1972 was the President of Burmah Oil Development, Inc., a wholly owned subsidiary of Burmah Oil, Inc.;
- (v) Has since its inception been, and presently is, the President of Flexibox U. S., Inc., a wholly owned subsidiary of Burmah Oil, Inc.; and
- (vi) Since 1965 has been a consultant to Barber Oil Corporation, a Delaware corporation with principal offices at 30 Rockefeller Plaza, New York, N. Y., and prior to 1965 was the President of Barber Oil Corporation and of its wholly owned subsidiary, Trinidad Corporation.

Hans H. Angermueller - Secretary and Director

Mr. Angermueller is and for the past five years has been a Partner in Shearman & Sterling, a law firm having its principal office at 53 Wall Street, New York; N. Y.

Alvin E. Friedman - Treasurer and Director

Mr. Friedman is and for the past five years has been a Partner in Kuhn, Loeb & Co., an investment banking firm having its principal office at 40 Wall Street, New York, N. Y. Mr. Friedman is a Director of the following corporations: International Telephone & Telegraph Corporation; Avnet, Inc., Sears Industries, Inc., and Burmah Oil, Inc., a U. S. subsidiary of Burmah.

(b) During the construction phase of the Vessel the Applicant will employ professional assistance from the Operator as well as from independent naval architects, marine engineers and other consultants for various activities. See item 18(b) in Part C(ii) below for data concerning shore management personnel of the Operator.

(c) Not applicable. See item 18(c) in Part C(ii) below for data concerning union affiliations and contracts necessary to the management and operation by the Operator of the Vessels.

19. As indicated in item 18(a) of this Part C(i), prior to 1965 Mr. Durbin was President of Trinidad Corporation, a wholly owned subsidiary of Barber Oil Corporation. Trinidad has its principal offices at 30 Rockefeller Plaza, New York, New York and owns and operates U. S. and foreign flag tanker vessels. Mr. Durbin is also currently Chairman of the Board of Directors of BOT, which has its principal office at the Bank of Bermuda Building, Front Street, Hamilton, Bermuda, and which owns and operates foreign flag tankers.

20. Not applicable.

(ii) Of the Operator:

18. (a) The Directors and Officers of the Operator are the same as those of the Applicant. Their resumes are set forth in item 18(a) of Part C(i) above.

(b) See Exhibit C attached.

(c) Collective bargaining agreements are expected to be executed with the following unions pursuant to agreements in principal already reached with respect to manning, work rules/practices and "no-strike" commitments:

<u>Crew</u>	<u>Union</u>
Officers, Deck and Engine	National Marine Engineers Beneficial Association
Unlicensed Personnel	Seafarer's International Union

Specialized crew training will be undertaken at the respective educational institutions of these unions.

Voyage repairs will be awarded on the basis of bids to responsible, capable contractors and shipyards.

Drydocking and other major repairs will be accomplished at major shipyards. It should be noted that the size and beam (143'10") of the Vessels limits the number of shipyards available to perform drydocking services.

The Operator may operate small offices at each of the discharge ports and at the loading port in order to facilitate docking, discharge/loading, supplying, and dispatch of the Vessels.

19. See item 19 of Part C(i) above.

D. As to Financial Matters

21. As indicated in item 3 of Parts A(i) and (ii) above, the Applicants and the Operator were only recently (July 12, 1972) organized and, as of the date of this application, the balance sheet of each Applicant and of the Operator is as follows:

Assets

Cash in bank	\$1,000.00
--------------	------------

Shareholders' Equity

Common Shares (\$1 par value)

Authorized	-	1,000 shares
------------	---	--------------

Outstanding	-	1,000 shares	\$1,000.00
-------------	---	--------------	------------

Neither the Applicants nor the Operator have had any operations to date other than those relating to organization matters and the sale and issuance of its Common Shares. The expenses incident to such organization matters and sale and issuance of Common Shares will be borne by BOT. Accordingly, no profit and loss statement is being submitted.

22. Not applicable. See item 21 above.
23. As shown in Exhibit D, the cost of construction of the Vessel has been negotiated with the builder to be \$89,000,000 if all three Vessels are the subject of substantially identical and concurrently executed Construction Contracts providing for deliveries for the first Vessel in the fourth quarter of 1975; the second Vessel in the first quarter of 1976; and the third Vessel in the first quarter of 1977.* The Applicant estimates that additional costs of approximately \$500,000 will be incurred in connection with the supervision and inspection of the Vessel during construction. Accordingly, based upon the foregoing, the Applicant estimates that the total subsidizable cost of the Vessel will be approximately \$89,500,000.

Based upon the cost of a vessel of comparable size, specifications and performance constructed, proposed to be constructed, and/or quoted for construction in foreign shipyards, the Applicant believes that the appropriate construction-differential subsidy rate applicable to the Vessel is approximately 30% or, in dollar amount, approximately \$26,850,000 in respect of the vessel. The Applicant hereby applies for a construction-differential subsidy in respect of the Vessel at a rate and dollar amount not less than set forth above.

* As also shown in Exhibit D, the cost of construction of the Vessel if six Vessels are contracted for with the Builder would be reduced to \$82,000,000.

The Applicant proposes to obtain the remaining approximately \$62,500,000 portion of the construction cost plus an estimated \$7,500,000 to cover interest, commitment fees and other costs payable during construction as follows:

- (a) Promptly after the granting of the construction-differential subsidy hereby applied for and the execution of the Construction Contract applicable to the Vessel, the Applicant will enter into an agreement (the "Construction Financing Agreement") with a group of U. S. banks (the "Construction Lenders") pursuant to which the Construction Lenders will make loans to the Applicant in an aggregate principal amount sufficient to cover the estimated \$70,000,000 un-subsidized portion of the Vessel's cost. Such loans will be guaranteed by Burmah which has guaranteed BOT's performance of the Transportation Agreement. The loans may also be secured by a pledge of the Applicant's stock and an assignment of the Construction Contract. A letter from First National City Bank indicating its readiness in principle to become, and induce other banks to become, the Construction Lenders is attached as Exhibit E.

- (b) Prior to delivery of the Vessel, the Equity Investors will become partners of the Owner and, upon delivery of the Vessel, contribute thereto that portion of the cost of the Vessel (not less than 25%) which will not be financed by the net proceeds of the sale of the long-term U. S. Government Title XI Insured Mortgage Bonds described in (c) below. The total amount of such contributions and net proceeds of sale will be applied to payments in full of the construction loans. A letter from Citicorp Leasing, Inc., a subsidiary of First National City Corporation, indicating its interest in principle to become, and/or induce other institutional investors to become, the Equity Investors is attached as Exhibit F.
- (c) Shortly after the date hereof, the Applicant will file with the United States Maritime Administration an application for Federal Ship Mortgage Insurance under Title XI of the Act insuring the due and punctual payment of the principal of, and interest on, an issue of long-term Bonds to be issued by the Owner upon or immediately after the delivery of the Vessel in an aggregate maximum principal amount equal to 75% of the insurable value of the Vessel. Subject to the granting of such application, the Owner will issue

and sell, by either public or private sale, the aforesaid long-term Bonds through investment bankers of recognized standing. A letter from Kuhn, Loeb & Co. indicating its willingness to place such bonds by either public or private sale as market conditions might warrant is attached as Exhibit G.

24. As of the date hereof, the Applicant has filed no applications (other than this application) with any governmental agency. However, as heretofore indicated, the Applicant intends to file applications with the United States Maritime Administrator for approval of the chartering arrangements with respect to the Vessel and with the United States Maritime Administration for Federal Ship Mortgage Insurance under Title XI of the Act. In addition, the Applicant or its counsel may file applications with the Internal Revenue Service for rulings with respect to various tax aspects (including the availability of Investment Tax Credit and depreciation) incident to the Vessel project as well as such other applications with the governmental agencies as may be necessary or advisable to effectuate and implement the Vessel project.

E. The Vessel and its Proposed Use

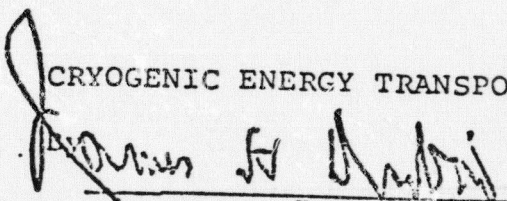
25. The Vessel will have a 125,000 cubic meter LNG capacity and will embody the Moss-Rosenberg system of LNG containment at -260°F in pressurized spheres. The Vessel will have an overall length of 936'2", beam of 143'10", and operating draft of 36'0" and a design speed of 19 knots. A more complete description of the Vessel and its specifications is included in Schedule I attached hereto (fifteen extra copies of said Schedule I are being furnished herewith). The supervising architect presently under consideration is Marine Services, Gmbh, Hamburg, Germany.
26. (a) As previously stated in the Introduction and in item 16 above, the Vessel will be used to transport cargoes of liquefied natural gas from Skikda, Algeria, the loading port, to New York Harbor and Narragansett Bay, Rhode Island, the discharge ports, pursuant to the Transportation Agreement (Confidential Exhibit B). During periods of Force Majeure (as defined in the Transportation Agreement), the Vessel, may under certain circumstances be used in other trades.

The foregoing service will involve the availability of special LNG loading equipment at Skikda, Algeria which the Seller of the LNG has agreed to provide (See Sec. 3 of LNG Sale and Purchase Agreement annexed as Exhibit B to the Transportation Agreement

- Exhibit C - Shore management personnel of the Operator
- Exhibit D - Letter from General Dynamics confirming Vessel construction cost
- Exhibit E - Letter from First National City Bank regarding construction financing
- Exhibit F - Letter from Citicorp Leasing, Inc., regarding equity financing
- Exhibit G - Letter from Kuhn, Loeb & Co. regarding placement of Title XI bonds
- Exhibit H - Estimated revenues, expenses and other data with respect to the proposed operation of the Vessel under the Transportation Agreement
- Exhibit I - Certificate of Incorporation of the Applicant
- Exhibit II - By-Laws of the Applicant
- Exhibit III - Not applicable
- Exhibit IV - Not applicable
- Exhibit V - (See item 21 above)
- Schedule I - Vessel characteristics

Dated: July 14, 1972

CRYOGENIC ENERGY TRANSPORT, INC.


President

Attest:


Secretary

EXHIBIT 2 TO NEMIROW AFFIDAVIT - AMENDMENT TO APPLICATION
FOR CONSTRUCTION-DIFFERENTIAL SUBSIDY DATED AUGUST 31, 1972

SPEARMAN & STERLING

53 WALL STREET

NEW YORK 10005

(212) 483-1000

CABLE: HUMLATUS

TELEX: 421295

399 PARK AVENUE
NEW YORK 10022

23, RUE ROYALE
PARIS 101
206 10-23
"HUMLATUS PARIS"
TELEX: 842-65706

42
Ex. 2

August 31, 1972

Maritime Subsidy Board
United States Maritime Administration
Department of Commerce
Washington, D. C.

Re: Amendment No. 1 to Three (3)
Applications Filed Under Title
V, Merchant Marine Act, For
Construction-Differential Subsidies

Dear Sirs:

On behalf of each of the following Applicant
corporations:

Cryogenic Energy Transport, Inc.
Liquegas Transport, Inc., and
LNG Transport, Inc.

we herewith file, in triplicate, an original, executed
Amendment No. 1 (including Exhibits C-1, H, J and K), dated
August 31, 1972, to such Applicant's Application, previously
filed with the Board on July 14, 1972, under Section 501(a)
of the Merchant Marine Act, 1936, as amended.

In addition, in accordance with "Instructions as
to preparation of Application Form FMB-8", there are
submitted herewith twelve (12) conformed copies of each
of the aforesaid Amendments, exclusive of Exhibits J
and K.

Should you have any comments or questions regarding
any of the enclosures, please do not hesitate to call (collect)
Carl Davis, Esq., of Alvord & Alvord, Washington (Telephone:
EXecutive 3-2266) or the undersigned (Telephone: 212-483-1000).

Very truly yours,

Richard A. Kalaher
Richard A. Kalaher

Enclosures

AMENDMENT NO. 1

TO

APPLICATION OF LNG TRANSPORT, INC. UNDER
TITLE V OF THE MERCHANT MARINE ACT OF 1970
FOR A CONSTRUCTION-DIFFERENTIAL SUBSIDY

LNG Transport, Inc. (herein called the "Applicant") hereby amends and supplements its application (the "CDS Application") filed with the Maritime Subsidy Board on July 14, 1972 under Section 501(a) of the Merchant Marine Act of 1936, as amended (the "Act"), for a construction-differential subsidy to aid in the construction of the Vessel therein described as follows (terms defined in the CDS Application are used herein with the same meaning, unless otherwise indicated):

Introduction

With respect to subparagraph (a) of the Introduction to the CDS Application, the Builder by letter to the Applicant dated August 23, 1972 has confirmed its readiness to enter into a Construction Contract in the form annexed to said letter, subject to, among others, the condition that the CDS Application be approved. A copy of said

letter (including the exhibits referred to therein) is hereto annexed as Exhibit J to the CDS Application.

With respect to subparagraph (b) of the Introduction to the CDS Application, it is proposed that there will be formed a trust for the benefit of Citicorp Leasing, Inc. (an affiliate of First National City Bank) and General American Transportation Corporation, each a U.S. citizen within the meaning of Section 2 of the Shipping Act of 1916, as amended, who will become and be the Equity Investors and, in lieu of the arrangements summarized in clause (ii) of said subparagraph (b), the Owner will enter into an agreement with the Applicant (the "Ownership Agreement") whereby (i) the Owner will apply all of the proceeds from the Title XI Insured Loans and Burmah Guaranteed Loans referred to below to the payment of the progress payments in respect of the construction of the Vessel, and (ii) the Applicant will agree to assign its title to the Vessel immediately after its delivery by the Builder to the Applicant. It is contemplated that the long-term Bonds referred to in clause (iv) of said subparagraph (b) (the "Title XI Mortgage Bonds") will be issued by the Applicant, secured by a first preferred ship mortgage on the Vessel, and sold to or through the investment banking firm of Kuhn, Loeb & Co.

The application for Title XI insurance (the "Title

XI Application") referred to in said subparagraph (b) is being filed with the Maritime Administrator concurrently with the filing of this Amendment No. 1 to the CDS Application. In addition to insurance covering the Title XI Mortgage Bonds to be issued upon delivery of the Vessel, the Applicant has, pursuant to the Title XI Application, also applied for insurance under Title XI of the Act in respect of construction loans (the "Title XI Insured Loans") covering 75% of the "actual cost" of the Vessel, with the balance of such cost to be financed by loans guaranteed by BOT and Burmah (the "Burmah Guaranteed Loans"). The Title XI Insured Loans and Burmah Guaranteed Loans will be refinanced on the delivery of the Vessel from the proceeds of the Title XI Mortgage Bonds and the contributions of the Equity Investors.

With respect to subparagraph (c) of the Introduction to the CDS Application, the Applicant will initially enter into the Bareboat Charter and will assign its rights and obligations thereunder to the Owner concurrently with its transferring title to the Vessel to the Owner. The options to extend the term of the Bareboat Charter (and also the Time Charter) will correspond with the useful life of the Vessel. Also, the option agreement pursuant to which Burmah had the right to acquire 49% of the capital stock

of the Operator, described in said subparagraph (c), has been cancelled and annulled and neither Burmah nor any of its subsidiaries have any right or option with respect to such stock. A copy of the proposed form of Bareboat Charter is annexed as Exhibit E to the Title XI Application.

A. Citizenship and Affiliations

- (i)4. The principal executive office of the Applicant is c/o The Corporation Trust Company, 100 West Tenth Street, Wilmington, Delaware.
- (i)5. Since the Owner will be a trust, there no longer exists the undertaking to offer the Applicant's stock described in the last sentence of this item. Mr. Angermueller continues, however, to hold the option to purchase at cost such stock from Mr. Durbin.
- (ii)5. As hereinbefore stated, neither Burmah nor any of its subsidiaries have any option or right with respect to the capital stock of the Operator, the option to acquire 49% thereof described in the last sentence of this item having been cancelled and annulled.

The only rights or options with respect to such stock are as follows:

(a) Mr. Angermueller has the option to purchase at cost all of the capital stock of the Operator; and

(b) Dr. C. Y. Chen, a U.S. citizen within the meaning of Section 2 of the Shipping Act of 1916, as amended, has the right and option, as well as the obligation, subject in each case to certain conditions, to purchase at cost up to 100% of the capital stock of the Operator from Mr. Durbin or, in the event the option described in (a) above is exercised, Mr. Angermueller.

A copy of the agreement incorporating such right, option and obligation described in (b) above is annexed hereto as Exhibit K to the CDS Application.

B. Business

(i)9(a). The Owner will also enter into the Title XI Loan Agreement and the Guaranteed Loan Agreement hereinafter referred to which together are in lieu of the Construction Financing Agreement previously described in the Introduction hereto.

(i)9(c). The Applicant will, pursuant to the Ownership Agreement, immediately after the delivery of the Vessel to it by the Builder, transfer to the Owner all its right, title and interest under, in and to the Vessel and the related Bareboat Charter in lieu of taking the action previously described in this item.

C. Management

(ii)18(b). As stated in item (ii)5(b) of Part A hereof, Dr. C. Y. Chen has an option, as well as an obligation, subject in each case to certain conditions, to purchase up to 100% of the capital stock of the Operator. It

is presently contemplated that Dr. Chen will, subject to the exercise of such option, or performance of such obligation, whichever shall first occur, become and be the chief executive officer of the Operator. Accordingly, a resume of Dr. Chen's principal business affiliations during the past five years and at present is as follows:

Business Experience in last five years:

December, 1971 to present:	Director, General American Transportation Corporation
	Chairman of Board and Chief Executive Officer of Marine Transport Lines, Inc.
December, 1970 to December, 1971:	President and Chief Executive Officer of Marine Transport Lines, Inc.
January, 1968 to December, 1970:	Senior Vice President of Marine Transport Lines, Inc.

Directorship and official position held at present time:

Marine Transport Lines, Inc:	Director and Chairman of the Board
Oswego Shipping Corporation:	Director and Chairman of the Board
General American International Finance Corporation:	Director and President

GATX-Oswego (UK) Ltd.:	Director and Chairman of the Board
Annandale Development Corp:	Director and Chairman of the Board
Zytron Industries, Inc.:	Director and Chairman of the Board
	Director and President or Chairman of the Board of some 40 subsidiaries of the above 6 companies
General American Transportation Corporation:	Director
Intelectron Corporation:	Director

Shore management personnel of the Operator will be independently selected and their services contracted for by Dr. Chen on behalf of the Operator promptly after his acquisition of control of the Operator and prior to the delivery of the Vessel. Such personnel will possess experience and qualifications at least equal to that of those persons whose resumes are contained in Exhibit C to the CDS application. None of the persons whose resumes are contained in Exhibit C to the CDS Application are anticipated

to be selected and contracted for by Dr. Chen on behalf of the Operator. An organization chart of the Operator prepared by Dr. Chen showing proposed management positions is annexed hereto as Exhibit C-1 to the CDS Application.

D. As to Financial Matters

21. Expenses incident to the organization of and issuance of capital stock by the Applicants and the Operator were borne by Mr. Durbin, the sole stockholder of each thereof, and not by BOT as previously indicated in this item.
23. With respect to the financing of the unsubsidized "actual cost" of the Vessel previously summarized in subparagraphs (a), (b) and (c) of this item, it is presently contemplated that such financing will be constructed and implemented as follows:
 - (a) Promptly after the granting of the construction-differential subsidy hereby applied for and the execution of the Construction Contract applicable to

the Vessel, the Owner (which will have been formed by the Equity Investors immediately prior thereto) will enter into the following agreements:

- (i) the Ownership Agreement with the Applicant, pursuant to which, in consideration of the Applicant's agreement to assign and transfer to the Owner all its right, title and interest under, in and to the Vessel and the related Bareboat Charter, the Owner will make the borrowings under the loan agreements described in (ii) and (iii) below and apply the proceeds thereof to progress payments due under such Construction Contract;
- (ii) a loan agreement ("Title XI Loan Agreement") with First National City Bank, as Agent for itself and other commercial banks to be named therein (the "Construction Lenders"), pursuant to which the Construction Lenders will make

the Title XI Insured Loans to the Owner in an aggregate principal amount not exceeding 75% of the "actual cost" (approximately \$72,000,000, inclusive of estimated interest and commitment fees payable in respect of the Title XI Insured Loans) of the Vessel, the principal of, and interest on, which loans is, subject to the approval of the Title XI Application, to be insured under Title XI of the Act (a letter of commitment summarizing the terms and conditions of the Title XI Insured Loans and Burmah Guaranteed Loans is annexed as Exhibit C-1 to Schedule I to the Title XI Application); and

- (iii) a loan agreement ("Guaranteed Loan Agreement") with the Construction Lenders, pursuant to which they will make the Burmah Guaranteed Loans to the Owner in an aggre-

gate principal amount equal to that portion of the capitalized cost during construction of the Vessel which is not covered by the Title XI Insured Loans, which Burmah Guaranteed Loans will be guaranteed as to payment by BOT and Burmah and subordinated to the prior payment in full of the Title XI Insured Loans.

The Title XI Insured Loans and Burmah Guaranteed Loans will be secured by (i) the pledge of the Applicant's capital stock, (2) the assignment of the Ownership Agreement by the Applicant and by the Owner, (3) the assignment by the Applicant of the Construction Contract, (4) the assignment of the commitment of the Equity Investors to contribute to the Owner upon delivery of the Vessel up to 35% of its capitalized cost, and (5) the assignment by the Applicant and the Operator of the Bareboat Charter and the Time Charter, respectively.

(b) Upon delivery of the Vessel the Equity In-

vestors will contribute to the Owner up to 35% of the capitalized cost of the Vessel. Kuhn, Loeb & Co. will arrange for the public sale or private issuance of the Title XI Mortgage Bonds as market conditions then warrant. The proceeds from the Title XI Mortgage Bonds and such contributions of the Equity Investors will be applied by the Owner first to the payment of the Title XI Insured Loans and second to the payment of the Burmah Guaranteed Loans.

24. As hereinbefore noted, concurrently with the filing of this Amendment No. 1, the Applicant is filing its Title XI Application.

E. The Vessel and its Proposed Use

26(c) and (d). Exhibit H has been revised and is annexed hereto in full as so revised.

Dated: August 31, 1972

LNG TRANSPORT, INC.
(Name of Applicant)

By B. J. H. DURBIN
President

Attest:

B. H. A. ANGERMULLER
Secretary

I, JAMES H. DURBIN, do certify that I am President of LNG Transport, Inc., the Applicant on whose behalf I have executed the foregoing Amendment No. 1 to the CDS Application therein referred to; that the Applicant is a citizen of the United States within the meaning of the Shipping Act, 1916, as amended (U.S.C., Title 46, Sec. 802); that said CDS Application, as amended by said Amendment No. 1 thereto (the "Application"), is made for the purpose of inducing the Maritime Subsidy Board/Maritime Administration to grant to the Applicant, pursuant to the provisions of the Merchant Marine Act, 1936, as amended, and particularly Title V thereof, a construction-differential subsidy to aid in the construction of a new LNG vessel to be used in the foreign commerce of the United States; that I have carefully examined the application and all documents submitted in connection therewith and, to the best of my knowledge, information and belief, the statements and representations contained in the Application and related documents are full, complete, accurate, and true.

/s/ J. H. DURBIN

James H. Durbin
President

Note: The U.S. Criminal Code makes it a criminal offense for any person knowingly to make a false statement or representation to, or to conceal a material fact from, any department or agency of the United States as to any matter within its jurisdiction (18 U.S.C. 1001), or to file a false, fictitious or fraudulent claim against the United States (18 U.S.C. 287).

EXHIBIT 3 TO NEMIROW AFFIDAVIT - AMENDMENT TO APPLICATION
FOR CONSTRUCTION-DIFFERENTIAL SUBSIDY DATED SEPTEMBER 15, 1972

AMENDMENT NO. 2

TO

APPLICATION OF LIQUEGAS TRANSPORT, INC. UNDER
TITLE V OF THE MERCHANT MARINE ACT OF 1970
FOR A CONSTRUCTION-DIFFERENTIAL SUBSIDY

RECEIVED
DIVISION OF MARITIME-INSURANCE
OFFICE OF SUBSIDY ADMINISTRATION
WASHINGTON, D.C. 20540

III
23
Ex.3

SECRETARY
MARITIME ADMINISTRATION
WASHINGTON, D.C. 20540

72 SEP 18 AM 9:17

RECEIVED

Liquegas Transport, Inc. (herein called the "Applicant") hereby amends and supplements its application filed with the Maritime Subsidy Board (the "Board") on July 14, 1972 (the "Original CDS Application"), as amended and supplemented by Amendment No. 1 thereto filed with the Board on August 31, 1972 (said application, as so amended, is referred to herein as the "CDS Application"), under Section 501(a) of the Merchant Marine Act of 1936, as amended (the "Act"), for a construction-differential subsidy to aid in the construction of the Vessel therein described as follows (terms defined in the CDS Application are used herein with the same meaning, unless otherwise indicated, and paragraphs and sections as numbered and lettered herein correspond to such paragraphs and sections in the Original CDS Application):

A. Citizenship and Affiliations

(i) Of the Applicant:

4. The principal executive office of the Applicant is c/o The Corporation Trust Company, 100 West Tenth Street, Wilmington, Delaware.
5. The Applicant and the Other Applicants are each under the common control of Wilmington Trust Company, as trustee ("Owner Trustee") of the Owner trust referred to in the Introduction to Amendment No. 1 to the Original CDS Application, the sole stockholder of the Applicant. Citicorp Leasing, Inc. and General American Transportation Corporation each have an option to purchase one-half (500 shares) of the capital stock of the Applicant from the Owner Trustee.

6. <u>Name and Address</u>	<u>Office</u>	<u>Nation-ality</u>	<u>Shares Owned</u>
Rodney M. Layton Hickory Hill Road Mendenhall, Pa.	President/ Director	U.S.A.	-0-
Barbara A. McKee 44 Arden Avenue Castle Hills New Castle, Del.	Secretary/ Director	U.S.A.	-0-
Thomas P. Sweeny 2802 Kennedy Road Talleybrook Wilmington, Del.	Treasurer/ Director	U.S.A.	-0-

The total capitalization of the Applicant is 1,000 common shares.

(ii) Of the Operator.

5. The response to this item is hereby amended to read and be as follows:

None.

6. The response to this item is hereby amended to read and be as follows:

<u>Name and Address</u>	<u>Office</u>	<u>Nation-ality</u>	<u>Shares Owned</u>
C. Y. Chen Larger Cross Road, Far Hills, N.J.	President and Director	U.S. Citizen	1,000 (100%)
Steve C. Dune 214 Grosvenor Road, Douglas Manor, N. Y.	Secretary and Director	U.S. Citizen	-0-
Roy A. Povell 6 Crystal Road Mountain Lakes, N.J.	Treasurer and Director	U.S. Citizen	-0-

The total capitalization of the Operator is 1,000 common shares.

C. Management

(i) Of the Applicant:

18. (a) A brief resume of each officer and director of the Applicant (each of whom became such on September 13, 1972) is submitted herewith:

Each of the officers and directors of the Applicant has for the past five years been, and is now, a partner in the law firm of Richards, Layton & Finger, 4072 DuPont Building, Wilmington, Delaware.

19. Not applicable. The previous response to this item in the Original CDS Application is hereby withdrawn.

(ii) Of the Operator:

18. (a) A resume of C. Y. Chen is set forth in (ii)18(b) of Part C in Amendment No. 1 to the Original CDS Application. Steve C. Dune and Roy A. Povell have each for the past five years been a partner in the New York law firm of Cadwalader, Wickersham & Taft, 1 Wall Street, New York, New York.
- (b) The first two sentences of the response to this item contained in Amendment No. 1 to the Original CDS Application are hereby deleted.

D. As to Financial Matters

23. (a)(iii) is amended to be and read as follows:

(iii) a loan agreement ("Guaranteed Loan Agreement") with the Construction Lenders, pursuant to which they will make the Burmah Guaranteed Loans to the Owner in an aggregate principal amount equal to that portion of the capitalized cost during construction of the Vessel which is not covered by the Title XI Insured Loans, which Burmah Guaranteed Loans will be guaranteed as to payment by BOT and Burmah and the security for such loans (referred to below) will be subordinate to the rights of the holder of such security under the Title XI Insured Loans.

E. The Vessel and its Proposed Use

25. The last sentence of the response to this item is amended to read and be as follows:
The supervising architect will be A. L. Burbank & Co.

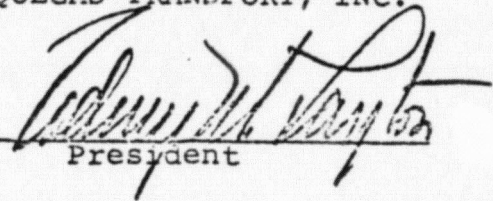
F. Exhibits and Schedule

28. Exhibit K to the CDS Application is hereby withdrawn.

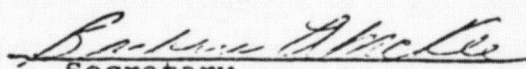
Dated: September 15, 1972

LIQUEGAS TRANSPORT, INC.

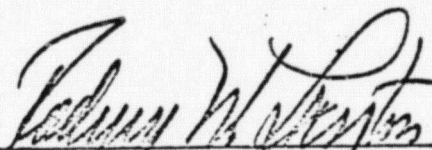
By


President

Attest:


Secretary

I, Rodney M. Layton, do certify that I am President of Liquegas Transport, Inc., the Applicant on whose behalf I have executed the foregoing Amendment No. 2 to the CDS Application therein referred to; that the Applicant is a citizen of the United States within the meaning of the Shipping Act, 1916, as amended (U.S.C., Title 46, Sec. 802); that said CDS Application, as amended by said Amendment No. 2 thereto (the "Application"), is made for the purpose of inducing the Maritime Subsidy Board/ Maritime Administration to grant to the Applicant, pursuant to the provisions of the Merchant Marine Act, 1936, as amended, and particularly Title V thereof, a construction- differential subsidy to aid in the construction of a new LNG vessel to be used in the foreign commerce of the United States; that I have carefully examined the application and all documents submitted in connection therewith and, to the best of my knowledge, information and belief, the statements and representations contained in the Application and related documents are full, complete, accurate, and true.



Rodney M. Layton
President

Note: The U.S. Criminal Code makes it a criminal offense for any person knowingly to make a false statement or representation to, or to conceal a material fact from, any department or agency of the United States as to any matter within its jurisdiction (18 U.S.C. 1001), or to file a false, fictitious or fraudulent claim against the United States (18 U.S.C. 287).

EXHIBIT 4 TO NEMIROW AFFIDAVIT - AMENDMENT TO APPLICATION
FOR CONSTRUCTION-DIFFERENTIAL SUBSIDY DATED SEPTEMBER 20, 1972

AMENDMENT NO. 3

TO

APPLICATION OF LIQUEGAS TRANSPORT, INC. UNDER
TITLE V OF THE MERCHANT MARINE ACT OF 1970
FOR A CONSTRUCTION-DIFFERENTIAL SUBSIDY

Ex 4
Ex. 4
RETURN TO
ADMINISTRATIVE FILES
DIVISION OF MARINE INSURANCE
OFFICE OF THE MARITIME SUBSIDY BOARD

Liquegas Transport, Inc. (herein called the "Applicant") hereby amends and supplements its application filed with the Maritime Subsidy Board (the "Board") on July 14, 1972 (the "Original CDS Application"), as amended and supplemented by Amendment No. 1 thereto filed with the Board on August 31, 1972 and Amendment No. 2 thereto filed with the Board on September 15, 1972 (said application, as so amended, is referred to herein as the "CDS Application"), under Section 501(a) of the Merchant Marine Act of 1936, as amended (the "Act"), for a construction-differential subsidy to aid in the construction of the Vessel therein described as follows (terms defined in the CDS Application are used herein with the same meaning, unless otherwise indicated, and paragraphs and sections as numbered and lettered herein correspond to such paragraphs and sections in the CDS Application):

Introduction

With respect to subparagraph (c) of the Introduction to the CDS Application, the Operator will, concurrently with the delivery of the Vessel to it under the Bareboat Charter, deliver the Vessel for service under a previously executed and approved time charter in substantially the form thereof annexed as Exhibit F to the Title XI Application (by Amendment No. 1 thereto filed with the Maritime Administrator on September 15, 1972), as said Exhibit F is amended by Amendment No. 2 to the Title XI Application filed with the Maritime Administrator on the date hereof (the "Time Charter"). The time charterer under the Time Charter will be Burmah Oil Incorporated, a Delaware corporation ("BOI") wholly-owned by Burmah.

With respect to subparagraph (d) of the Introduction to the CDS Application, BOI has entered into an agreement with BOT dated as of September 19, 1972 (the "Vessel Management Contract"), a copy of which is annexed as Exhibit L to said Amendment No. 2 to the Title XI Application. The Vessel Management Contract provides for, among other things, the time chartering in, and management of, the Vessels by BOI in the performance of BOT's obligations under the Transportation Agreement in consideration of BOT's agreement to pay to BOI (i) its actual expenses incurred in the time chartering in, and management of, the Vessels and (ii) twenty percent (20%) of the profits accruing to BOT under the Transportation Agreement.

B. Business

(ii) Of the Operator:

Paragraph 9(a) is hereby amended to read and be as follows:

(a) To enter into the Bareboat Charters and the Time Charter;

Paragraph 12 is hereby amended to read and be as follows:

12. The Operator does not presently charter any vessels; however, the Operator proposes to enter into the Bareboat Charters with three Applicants and the Time Charters with BOI.

C. Management

(i) Of the Applicant

Paragraph 18(a) is hereby amended to read and be as follows:

18(a) A brief resume of each officer and director of the Applicant is submitted herewith:

Rodney M. Layton is now, and during the past five years has been, a partner in the law firm of Richards, Layton & Finger, 4072 DuPont Building, Wilmington, Delaware.

Thomas P. Sweeny is now, and since January 1, 1968 has been, a partner of said firm of Richards, Layton & Finger where he has been an associate since February of 1967.

Barbara A. McKee is now, and during the past five years has been, employed by said firm of Richards, Layton & Finger.

Dated: September 20, 1973

Attest:

Liquegas Transport, Inc.

Secretary

By _____
President

I, Rodney M. Layton, do certify that I am President of Liquegas Transport, Inc., the Applicant on whose behalf I have executed the foregoing Amendment No. 3 to the CDS Application therein referred to; that the Applicant is a citizen of the United States within the meaning of the Shipping Act, 1916, as amended (U.S.C., Title 46, Sec. 802); that said CDS Application, as amended by said Amendment No. 3 thereto (the "Application"), is made for the purpose of inducing the Maritime Subsidy Board/Maritime Administration to grant to the Applicant, pursuant to the provisions of the Merchant Marine Act, 1936, as amended, and particularly Title V thereof, a construction-differential subsidy to aid in the construction of a new LNG vessel to be used in the foreign commerce of the United States; that I have carefully examined the Application and all documents submitted in connection therewith and, to the best of my knowledge, information and belief, the statements and representations contained in the Application and related documents are full, complete, accurate, and true.

Rodney M. Layton
President

Note: The U.S. Criminal Code makes it a criminal offense for any person knowingly to make a false statement or representation to, or to conceal a material fact from, any department or agency of the United States as to any matter within its jurisdiction (18 U.S.C. 1001), or to file a false, fictitious or fraudulent claim against the United States (18 U.S.C. 287).

EXHIBIT 5 TO NEMIROW AFFIDAVIT - ORIGINAL APPLICATION OF
LNG TRANSPORT, INC. FOR TITLE XI GUARANTEES

Ex 5
Ex. 5

APPLICATION FOR SHIP MORTGAGE AND LOAN
INSURANCE UNDER TITLE XI, MERCHANT
MARINE ACT, 1936, AS AMENDED (46 U.S.C.
1271-1279a; THE "ACT") AND THE RULES
AND REGULATIONS PRESCRIBED TO CARRY
OUT THE PROVISIONS OF THE ACT (46
C. F. R. 298; THE "REGULATIONS").

LNG TRANSPORT, INC.

August 31, 1972

INTRODUCTION

LNG Transport, Inc. (herein called the "Applicant") filed an application (the "CDS Application") on July 14, 1972 under Section 501(a) of the Act with the Maritime Subsidy Board for a construction-differential subsidy to aid in the construction of an LNG tanker vessel (the "Vessel") to be used in the foreign commerce of the United States. Concurrently with the filing of the CDS Application, two substantially similar applications under Title V of the Act for construction-differential subsidies in respect of two identical LNG tanker vessels (herein, together with the Vessel, collectively called the "Vessels") were filed by Liquegas Transport, Inc. and Cryogenic Energy Transport, Inc., affiliates of the Applicant (the "Other Applicants" and, together with the Applicant, collectively, the "Applicants").

Concurrently with the filing of this application, two substantially similar applications under Title XI of the Act for ship mortgage and loan insurance are being filed by the Other Applicants with respect to the other two Vessels. Information provided in this and such other applications in respect of the "Mortgagor and Borrower" relates solely to the Applicant and the other Applicants, respectively.

-----This and such other applications will each be amended to provide information in respect of the actual "Borrower" upon the formation of the Owner (as such term is hereinafter defined) of the Vessel in respect of which such application is being made.

It is proposed that, upon completion of the construction of each Vessel, such Vessel will be used for the transportation of liquefied natural gas to the United States pursuant to a Transportation Agreement dated as of June 26, 1972 (the "Transportation Agreement") between Burmah Oil Tankers Limited, a Bermuda corporation ("BOT"), and Public Service Electric & Gas Company and Algonquin Gas Transmission Company, respectively New Jersey and Delaware corporations (the "Shippers"). The performance of BOT's obligations under the Transportation Agreement is guaranteed by Burmah Oil Company Limited, a United Kingdom corporation which is BOT's parent ("Burmah"). The Vessel will be primarily operated between Skikda, Algeria, the loading port, and New York Harbor and Narragansett Bay, Rhode Island, the ports of discharge. A copy of the Transportation Agreement was filed as confidential Exhibit B to each of the CDS Applications.

It is contemplated that the Vessels will be constructed, delivered, owned, chartered, and employed under

the Transportation Agreement pursuant to the following arrangements:

- (a) Each Applicant will, as promptly as practicable within the next 60 days, enter into a Contract (the applicable "Construction Contract") with General Dynamics Corporation (the "Builder") for the construction at the Builder's Quincy, Massachusetts shipyard of the Vessel in respect of which it has filed its CDS Application. The Builder has by letter dated August 23, 1972 confirmed to each Applicant its intention to enter into such Applicant's Construction Contract, subject to the granting of the construction-differential subsidy in respect of which such Applicant has filed its CDS Application and the fulfillment of certain other conditions. A copy of such letter is annexed as Exhibit J to the CDS Application by Amendment No. 1 thereto filed with the Maritime Subsidy Board concurrently with the filing of this application. The Vessels are scheduled to be delivered in the (i) fourth quarter of 1975 (ii) first quar-

ter of 1976 and (iii) first quarter of 1977, respectively.

- (b) As promptly as practicable within the next 90 days, three trusts (the "Owners") will be established by Citicorp Leasing, Inc., General American Transportation Corporation and additional institutional investors to be designated by said two corporations (collectively, the "Equity Investors") which will be administered by a commercial bank or trust company to be designated as Trustee. By appropriate contractual and/or ownership arrangements with the Applicants, the Owners will respectively have the right to acquire title to, and become the registered owners of, the Vessels immediately after delivery thereof to the respective Applicants. Each Owner and Equity Investor will qualify as a U.S. citizen within the meaning of Section 2 of the Shipping Act, 1916, as amended. A copy of a letter dated August 7, 1972, as supplemented and amended, from Citicorp Leasing, Inc. and General American Transportation Corporation confirm-

ing their willingness to create the Owners and to contribute the equity referred to in (e) below is annexed hereto as Exhibit B-3.

- (c) Each Owner will borrow funds sufficient to finance the unsubsidized "actual cost" of its Vessel pursuant to:

(i) a loan agreement with First National City Bank, as Agent for itself and certain other commercial banks (the "Construction Lenders") pursuant to which the Construction Lenders will make loans ("Title XI Insured Loans") to such Owner in an aggregate principal amount of not exceeding 75% of the "actual cost" (as such term is defined in the Regulations) of such Vessel, which, at the date of filing hereof, is estimated to be \$72,000,000, inclusive of estimated interest and commitment fees to be payable in respect of the Title XI Insured Loans, the principal of, and interest on, which loans is, subject to the approval of such Owner's Title XI application, to be insured under Title XI of the Act; and

(ii) a loan agreement with the Construction Lenders pursuant to which they will make other loans ("Burmah Guaranteed Loans") to such Owner in an aggregate principal amount equal to the sum of (A) that portion of the "actual cost" of such Vessel which is not covered by the Title XI Insured Loans and (B) interest and commitment fees in respect of the Burmah Guaranteed Loans and other capitalized construction costs of such Vessel not includible in its "actual cost", which Burmah Guaranteed Loans will be guaranteed as to payment by BOT and Burmah and subordinated to the prior payment in full of the Title XI Insured Loans.

A copy of a letter of commitment dated July 21, 1972 from First National City Bank confirming its willingness to make available the Title XI Insured Loans and Burmah Guaranteed Loans is annexed as Exhibit C-1 to the CDS Application by Amendment No. 1 thereto.

- (d) The entire amount of the Burmah Guaranteed Loans will be taken down and made in respect

of a Vessel before any Title XI Insured Loans are taken down and made with respect to the same Vessel. It is presently anticipated that Burmah Guaranteed Loans will be adequate to cover all progress payments due in respect of each Vessel through, and that consequently no Title XI Insured Loans need be taken down or made until, October, 1975. The proceeds of all Title XI Insured Loans will be applied solely and exclusively to the making of payments of the "actual cost" of the Vessels. If any additional amounts are required to be paid in connection with any Vessel, such additional costs will be covered by the proceeds of Burmah Guaranteed Loans.

- (e) Immediately after the delivery of each Vessel, such Vessel will be documented under the laws and flag of the United States in the name of the Applicant. Concurrently, the Equity Investors will contribute to the applicable Owner, as equity (which may, at the option of the Equity Investors, be represented by such Owner's debt obligations issued to the Equity Investors, which ob-

ligations will be unsecured and fully subordinated to the Title XI Mortgage Bonds referred to below), between 25% to 35% of the total, capitalized cost of such Vessel and the investment banking firm of Kuhn, Loeb & Co. will arrange for the issuance and sale (either by public or private sale as market conditions may then dictate) by the Applicant which is a party to the Construction Contract covering such Vessel of its long-term first preferred ship mortgage bonds, the principal of and interest on which is, subject to the approval of such Applicant's Title XI application, to be insured under Title XI of the Act (the "Title XI Mortgage Bonds"). The aggregate principal amount of the Title XI Mortgage Bonds will be in compliance with the applicable provisions of the Act and the Regulations. The interest rate on the Title XI Mortgage Bonds will be a fixed rate which, in the opinion of Kuhn, Loeb & Co., will be the best obtainable in light of then prevailing market conditions. The proceeds of the Title

XI Mortgage Bonds, together with the contributions of the Equity Investors, will be applied, pursuant to Section 1104(a)8 of the Act, first to the repayment of the Title XI Insured Loans and second to the repayment of the Burmah Guaranteed Loans.

- (f) Immediately after the Applicant's issuance and sale of the Title XI Mortgage Bonds, the related Owner will acquire from such Applicant title to the Vessel (subject, however, to the first preferred ship mortgage thereon securing the applicable Title XI Mortgage Bonds), and such Owner will deliver such Vessel under a bareboat charter previously executed and assigned by such Applicant to such Owner having options to extend the term (the applicable "Bareboat Charter") to Summit Marine Operations, Inc., a Delaware corporation (the "Operator"), all of the issued and outstanding capital stock of which is (and will continue to be, so long as the below-mentioned Time Charter is in effect) owned by U.S. citizens within the meaning of Section 2 of the Shipping

Act, 1916, as amended. A copy of the proposed form of Bareboat Charter is hereto annexed as Exhibit E.

Concurrently with the delivery of each Vessel to the Operator, the Operator will deliver such Vessel to BOT for service under a previously executed and Maritime Administration approved time charter, having the same basic term and extension options as the Bareboat Charter covering such Vessel as well as certain bareboat charter features relating to hire (the applicable "Time Charter"). The obligations of BOT under each Time Charter, including the obligation to pay charter hire irrespective of any unavailability or absence of purpose for service thereunder of the Vessel covered thereby, will be unconditionally guaranteed by Burmah. The proposed form of Time Charter is presently under negotiation and will be annexed as Exhibit F hereto by subsequent amendment to be filed within the next 20 days.

- (g) The Vessels so time chartered to BOT will be used by it in the performance of the Transportation Agreement.

It is believed that this Title XI application and the Title XI applications of the Other Applicants should be granted for the following principal reasons:

- (1) Construction and operation of the Vessels will assist in the development of a new shipping capability for United States-flag vessels in foreign commerce.
- (2) Construction and operation of the Vessels will assist in alleviating the increasingly acute United States energy shortage through the importation of foreign natural gas.
- (3) Construction of the Vessels in the United States will eliminate the adverse U.S. balance of payments effect were such construction contracted for by foreign shipyards.
- (4) Construction of the Vessels in the United States will lead to development of a domestic ship construction technology which, to date, has been virtually entirely developed by foreign shipyards.

PART I - SUMMARY INFORMATION

Name of Applicant Mortgagor and Borrower

LNG Transport, Inc.

Street Address

c/o The Corporation Trust Company
100 West Tenth Street

City and State

Wilmington, Delaware

Name of Proposed Mortgagee

To be designated

Name of Proposed Lender

First National City Bank, as
Agent for itself and other bank-
ing institutions to be desig-
nated

Street Address

399 Park Avenue

City and State

New York, New York 10022

Nature of Application

Mortgage Insurance and Loan
Insurance

The Proposed Loans:

- (a) Types of Loans - Long-Term Mortgage and Interim
Construction Loans
- (b) Kinds of Obligations to Evidence the Loans-
Title XI Mortgage Bonds and Secured Notes -

The Secured Notes (evidencing the construction loans) will be privately placed with the Lending Agency identified in Schedule I hereto. The Title XI Mortgage Bonds will be sold privately or publicly as market conditions at the time of their issuance then warrant.

- (c) Purpose - Pursuant to Section 1104(b)(2) of the Act, the Title XI Insured Loans will be used to aid in the financing of part of the unsubsidized construction cost of the Vessel. Pursuant to Section 1104(a)(8) of the Act, the mortgage loan will be made to repay the Title XI Insured Loans upon delivery of the Vessel to its Owner.
- (d) Amount of Loans - Approximately \$54,000,000, which is 75% of the estimated "actual cost" of the Vessel.
- (e) Periods of Loans - As stated in the Introduction hereof, since it is proposed that the Burmah Guaranteed Loans be made before any Title XI Insured Loans are made, it is estimated that takedowns of the Title XI Insured Loans will commence during October of 1975,

and become payable upon the delivery of the Vessel, estimated to occur during March of 1977. The mortgage loan will have a maturity of approximately 20 years from the delivery of the Vessel.

- (f) Interest Rates - The rate of interest in respect of the Title XI Insured Loans will be a fixed rate specified in an amendment hereto and will be the best rate than available for short-term loans and supported by Exhibit C hereto which will be concurrently filed with such amendment. The rate of interest in respect of the Title XI Mortgage Bonds will be the best obtainable rate for long-term government insured debt obligations at the time of their issuance.
- (g) Amortization Schedule - The Title XI Insured Loans are payable upon the delivery of the Vessel. It is anticipated that the mortgage loan will be repaid in 40 semiannual installments in arrears under a level debt payment program (including principal and interest). A proforma schedule of such mortgage amortization will be annexed hereto

as Exhibit H immediately after the fixing of the applicable interest rate.

- (h) Type of Vessel - The Vessel will have a 125,000 cubic meter LNG capacity and will embody the Moss-Rosenberg system of LNG containment at -260°F in pressurized spheres. The Vessel will have an overall length of 936'2", a beam of 143'10", an operating draft of 36'0", a full load displacement of 94,600 tons, weigh 63,600 deadweight tons and have a service speed of approximately 19 knots. A more complete description of the Vessel and its specifications is included in Schedule I attached to the CDS Application.

PART II - APPLICATION

The undersigned Applicant hereby applies to the United States of America, represented by the Secretary of Commerce, acting by and through the Maritime Administrator (herein referred to as the "Secretary") under the Act and Regulations for insurance of:

- (a) the interest on and the unpaid balance of the principal of a mortgage in the approximate original principal amount of \$54,000,000

(the specific amount to be supplied by amendment hereto) to be executed by the Applicant in favor of the mortgagee to be designated by amendment hereto,

and

- (b) the interest on and the unpaid balance of principal of a loan in the approximate original principal amount of \$54,000,000 (the specific amount to be furnished by amendment hereto) to be made to the Owner by the Construction Lenders,

for the purposes and upon the terms and conditions herein set forth, including the annexed Schedules and Exhibits, and subject to all the provisions of the Act and the Regulations. In support of this application, the Applicant submits the following information, in addition to that stated in Part I hereof:

I. As to the Applicant: Its Identity

- A. Not Applicable
- B. Not Applicable
- C. Incorporated Companies

1. Exact Name of Applicant

LNG Transport, Inc.

2. State in which Incorporated and Date of Incorporation

Delaware - July 12, 1972

3. Address of Principal Executive Offices and Important Branch Offices if any:

c/o The Corporation Trust Company
100 West Tenth Street
Wilmington, Delaware

4. The following information with respect to each officer and director of the corporation:*

<u>Name and Address</u>	<u>Office</u>	<u>Nationality</u>	<u>Capital Shares Owned - Voting Common Stock</u>
James H. Durbin 51 Cypress Lane Briarcliff Manor, New York	President and Director	U.S. Citizen	1,000 (100%)
Hans H. Angermueller 1 Surrey Road Summit, New Jersey	Secretary and Director	U.S. Citizen	0**
Alvin E. Friedman 176 Hemlock Road Manhasset, New York	Treasurer and Director	U.S. Citizen	0

5. Not Applicable

6. Not Applicable

* The officers and directors of the Applicant may be changed prior to or upon the formation of the Owner.

** Pursuant to an agreement dated July 14, 1972 with Mr. Durbin, Mr. Angermueller has an option to purchase all or any portion of Mr. Durbin's holdings of the Applicant's stock at his cost.

II. As to the Applicant: Its Business and Affiliations

A. Principal Business Activities

The Applicant was organized on July 12, 1972 for the following purposes:

- (1) To enter into the Construction Contract, the Bareboat Charter and the construction financing arrangements with the Owner;
- (2) To make applications (including the CDS Application and this application) to the appropriate governmental agencies with respect to the construction, chartering and financing of the Vessel;
- (3) Upon delivery of the Vessel, to issue and sell the Title XI Mortgage Bonds and immediately thereafter to transfer title to the Vessel to the Owner; and
- (4) To do such other acts and things as may be necessary or advisable to accomplish the foregoing.

B. Related Companies

As stated in the Introduction, the Other Applicants are affiliates of the Applicant,

each being under the common control of Mr. Durbin, its sole stockholder, who is also the sole stockholder of the Applicant. Mr. Angermueller, the Secretary and a Director of each of the Applicants, has an option to purchase Mr. Durbin's holdings of stock in each thereof at his cost. The purposes for which each of the Other Applicants was organized and the date of its organization are the same as the Applicant's, but, in each case, with respect to such Other Applicant's Vessel. The Applicant is also an affiliate of the Operator, whose officers, directors and stockholders are in each case the same as the Applicant's. The Operator was organized for the purpose of operating and chartering vessels.

- C. None of the Applicants or the Operator has ever been in bankruptcy or in reorganization under Section 77-B of the Bankruptcy Act or in any other insolvency or reorganization proceedings.
- D. None of the Applicants or the Operator has ever been in default under any agreement

----- or undertaking with others or with the United
----- States or guaranteed or insured by the United
States.

III. As to the Management of the Applicant

A. A brief description of the principal business activities during the past 5 years of each director and each principal executive officer of the Applicant:

James H. Durbin - President and Director

Mr. Durbin's principal business affiliations during the past five years and at present are as follows:

- (i) Has since its inception in November, 1970 been, and presently is, Chairman of the Board of Directors of BOT;
- (ii) Since 1968 has been the President and a Director of Burmah Oil, Inc., a wholly owned U.S. (Delaware) subsidiary of Burmah;
- (iii) Has since its inception been, and presently is, Chairman of the Board of Edwin Cooper, Inc., a wholly owned subsidiary of Burmah Oil, Inc.;

- (iv) From its inception until during 1972 was the President of Burmah Oil Development, Inc., a wholly owned subsidiary of Burmah Oil, Inc.;
- (v) Has since its inception been, and presently is, the President of Flexibox U.S., Inc., a wholly owned subsidiary of Burmah Oil, Inc.;
- (vi) Since 1965 has been a consultant to Barber Oil Corporation, a Delaware corporation with principal offices at 30 Rockefeller Plaza, New York, N.Y., and prior to 1965 was the President of Barber Oil Corporation and of its wholly owned subsidiary, Trinidad Corporation; and
- (vii) Since July 14 has been the President, sole stockholder and a director of each of the Applicants and of the Operator, each of said four corporations having its office at 1345 Avenue of the Americas, New York, New York.

Hans H. Angermueller - Secretary and Director

Mr. Angermueller is and for the past five years has been a Partner in Shearman & Sterling, a law firm having its principal office at 53 Wall Street, New York, New York.

Alvin E. Friedman - Treasurer and Director

Mr. Friedman is and for the past five years has been a Partner in Kuhn, Leob & Co., an investment banking firm having its principal office at 40 Wall Street, New York, New York.

Mr. Friedman is a Director of the following corporations: International Telephone & Telegraph Corporation, Avnet, Inc., Sears Industries, Inc., and Burmah Oil, Inc., a U.S. subsidiary of Burmah.

B. Mr. Durbin, the President, sole stockholder and a director of the Applicant, is also Chairman of the Board of BOT. As noted in the Introduction to the CDS Application, it is contemplated that BOT will time-charter the Vessel from the Operator, which will have bareboat chartered the Vessel from the Owner. As noted in III.A. above, Mr. Durbin

is the President, sole stockholder and a Director of the Operator.

- C. There are no affiliations or relationships between the Applicant and any of its directors or principal executive officers, on the one hand, and, on the other hand, the Builder and any of its directors and principal executive officers.
- D. Name, citizenship, education, background of, and licenses held by all shore management personnel concerned with the physical operation of the Vessel

As stated in the Introduction hereto, it is contemplated that the Vessel will be chartered to the Operator under the Bareboat Charter which will in turn charter the Vessel to BOT under the Time Charter for service under the Transportation Agreement. Accordingly, neither the Applicant nor the related Owner will engage any shore management personnel for operation of the Vessel. However, such shore management personnel will be engaged by the Operator. Informa-

tion in respect of the shore management personnel of the Operator is contained in Exhibit C to the CDS Application as annexed to Amendment No. 1 thereto. Information in respect of union affiliations and collective bargaining agreements with the Operator is set forth in Item 18(c) of the CDS Application. A copy of the proposed form of Bareboat Charter is annexed hereto as Exhibit E. A copy of the proposed form of Time Charter will be annexed as Exhibit F hereto by amendment to be filed within the next 20 days.

IV. As to the Applicant: Its Property and Activities

- A. A brief description of the general character and location of the principal properties of the Applicant employed in its business other than vessels.

The Applicant owns no tangible property.

- B. A statement with respect to each vessel owned by the Applicant, or operated by it under charter.

The Applicant does not presently own or operate under charter any vessels.

C. Not Applicable.

D. Not Applicable.

V. The Project

A. The purpose for which the proposed Title XI Insured Loans will be expended with reference to Section 1104(b) (2) of the Act is to finance 75% of the unsubsidized "actual cost" of the Vessel during the period of its construction. The purpose for which the proposed mortgage loan will be expended with reference to Section 1104(a) (8) of the Act is to repay the Title XI Insured Loans.

B. (1) The total estimated capitalizable cost of the construction of the Vessel as proposed is approximately \$77,900,000 of which \$67,900,000 is the estimated shipyard contract price,* less a construction-differential subsidy of \$21,100,000 being assumed for purposes of this application, with the balance consisting of estimated interest, com-

*Based upon the Builder's quoted contract price for three LNG tanker vessels with the same design and specifications as the Vessel of \$89,000,000 for each such vessel, less a construction-differential subsidy assumed, for purposes of this application, to be \$21,100,000 (23.7% of such contract price). Should the Builder enter into contracts for the construction of six such vessels, such contract price would be automatically reduced to \$82,000,000 and, applying the same 23.7% factor for determining the allowable construction differential subsidy, would result in a

mitment fees and other costs payable during construction of the Vessel, including the Maritime Administration investigation fee, legal fees, investment underwriting cost, printing expenses, accounting fees, overhead and construction supervision costs and other miscellaneous fees and costs. A breakdown of the foregoing is shown in Exhibit B hereto. There are no shore facilities, cargo containers, or other capital expenditures planned by the Applicant in conjunction with the project. As stated in the Introduction hereto, that portion of the cost during the construction of the Vessel which will not be financed by the Title XI Insured Loans will be financed under the Burmah Guaranteed Loans, and, after delivery, that portion of the aggregate amount of principal and interest payable under the Title XI Insured Loans and Burmah Guaranteed Loans which will not be refinanced by the net proceeds of the Title XI Mortgage Bonds will be contributed to the Owner by the Equity Investors as equity (which may be repre-

sented by debt obligations issued by the Owner to the Equity Investors, which debt obligations will be unsecured and fully subordinated to the Title XI Mortgage Bonds) and applied to such refinancing.

An agreement has been reached with First National City Bank, the terms of which are summarized in its letter of commitment annexed as Exhibit C-1 to Schedule I hereto, whereby First National City Bank and other commercial banking institutions being selected for such purpose by it will make all of the Title XI Insured Loans and Burmah Guaranteed Loans. Substantially definitive and final forms of loan agreements providing for such respective loans will be annexed hereto as Exhibits B-1 and B-2, respectively, as promptly as practicable within the next 60 days.

An agreement has also been reached in principle with Citicorp Leasing, Inc.

(an affiliate of First National City Bank), the terms of which are summarized in its letter of commitment annexed hereto as Exhibit B-3, whereby Citicorp Leasing, Inc. and General American Transportation Corporation, a New York corporation, will become and be the Equity Investors and contribute to the Owner immediately prior to the transfer to it of title to the Vessel at least that portion of principal and interest payable under the Title XI Insured Loans and Burmah Guaranteed Loans which will not be refinanced by the proceeds of the Title XI Mortgage Bonds.

It is contemplated that, subject to the granting of this application, the Applicant will issue and sell, by either public or private sale, the Title XI Mortgage Bonds through the investment banking firm of Kuhn, Loeb & Co. A letter dated July 14, 1972 from Kuhn, Loeb & Co. indicating its willingness to place the Title XI Mortgage Bonds

by either public or private sale, as market conditions might then warrant, is attached to the CDS Application as Exhibit G.

- (2) Information required to be set forth in the table of estimated vessel characteristics as listed in Schedule II to Form MA-163 has previously been furnished in Schedule I attached to the CDS Application. Preliminary design information was previously submitted at the time of filing the CDS Application. The supervising architect presently under consideration is Marine Services, GmbH, Hamburg, Germany.

C. Not Applicable.

- D. A comparison of the characteristics of the Vessel will indicate the Vessel's conformity with the requirements of the Transportation Agreement (Article III, Sec. 3.3.) and of the LNG Purchase and Sale Agreement (Sec. 3.A.) annexed as Exhibit B to the Transportation Agreement.

E. Description of proposed operations

- (1) - (5) See Exhibit D hereto
- (6) See Exhibits F (to be supplied
by amendment hereto) and G hereto
- (7) Not Applicable
- (8) Not Applicable

F. Forecast of operations

- (1) - (5) See Exhibit D hereto.

G. Construction Contract

Negotiations have been conducted with the Builder for the construction at the Builder's Quincy, Massachusetts shipyard of the Vessels and, as confirmed in a letter from the Builder to the Applicant dated August 23, 1972, a copy of which is annexed as Exhibit J to Amendment No. 1 to the CDS Application being filed concurrently herewith, it is anticipated that, subject to approval of the CDS Application, the Applicant will enter into a contract with the Builder for the construction of its Vessel in substantially the form thereof annexed to said letter. The Applicant believes that a negotiated

contract with the Builder will result in the lowest cost and earliest delivery of the Vessel and is prepared upon request to furnish evidence in support of such belief to the Maritime Administration.

H. New Service

As stated in the Introduction and Exhibit D hereto, the Operator proposes to utilize the Vessel in a new liquefied natural gas transport service between Skikda, Algeria, the loading port, and New York Harbor and Narragansett Bay, Rhode Island, the two discharge ports.

I. Not Applicable.

J. Not Applicable.

K. Not Applicable.

VI. Fees and Charges

Fees and charges to be capitalized in connection with construction of the Vessel are presently estimated to be as follows:

- (1) Maritime Administration investigation fees incurred in connection with this and the

CDS Application (calculated at 1/8 of 1% of the amount of the Title XI first preferred ship mortgage). \$ 65,000

(2) Fees payable to underwriters in connection with the public or private placement of the Title XI Mortgage Bonds (calculated at 3/4 of 1% of the amount thereof, subject to adjustment in light of prevailing market conditions, including underwriters' fees). . . . \$540,000

(3) Printing costs. \$ 50,000

(4) Fees for counsel to the Applicant, the Lending Agency referred to in Schedule I hereto, the Equity Investors and the underwriters referred to in (2) above. \$185,000

(5) Accounting fees \$ 75,000

VII. As to Schedules and Exhibits

A. List of Schedules and Exhibits

(It is requested that confidential treatment be accorded to Schedule I and Exhibits B, B-1, B-2, B-3 and D hereto.)

Schedule I. The lender's statement in support of this application. (The

mortgagee's statement in support of this application will be furnished later.)

Schedule II. Table of characteristics. (Omitted; see Schedule I attached to the CDS Application.)

Schedule III. Preliminary design information. (Omitted; previously submitted with the CDS Application.)

Exhibit A. Copy of (1) the Certificate of Incorporation, and (2) the By-Laws, as amended, of the Applicant. (Omitted; previously filed as Exhibits I and II to the CDS Application.)

Exhibit B. (1) Detailed supports to item B(1) of Section V.

(a) Reconciliation of the total, estimated capitalizable costs of construction of the Vessel to the Applicant during the construction period.

- (2) Balance sheets and profit and loss statements. (Omitted; see item 21 of the CDS Application.)
- (3) Pro-forma Balance Sheet of the Applicant as of the date of assumption of insurance liability by the Government.
- (4) Pro-forma Profit and Loss Projection for at least five years of operation.
- (5) Pro-forma schedules of depreciation on the Vessel on:
 - (a) book basis, and
 - (b) tax basis.(To be submitted later.)
- (6) Pro-forma Schedule of Debt Amortization (other than for insured loan and mortgage). (Not applicable since no other debt will be incurred.)

Exhibit B-1. Form of loan agreement providing for the Title XI Insured Loans. (To be furnished.)

Exhibit B-2. Form of loan agreement providing for the Burmah Guaranteed Loans. (To be furnished.)

Exhibit B-3. Commitment of Citicorp Leasing, Inc. and General American Transportation Corporation to become and be the Equity Investors and contribute to the Owner immediately prior to the transfer to it of title to the Vessel at least that portion of principal and interest payable under the Title XI Insured Loans and Burmah Guaranteed Loans which will not be refinanced by the proceeds of the Title XI Mortgage Bonds.

Exhibit C. Justification for rate of interest for Title XI Insured Loans and for Title XI Mortgage Bonds and support as best rates ob-

tainable.. (To be furnished
at the respective times such
rates are established.)

Exhibit D. Forecast of Operations.

Exhibit E. Proposed form of Bareboat Charter.

Exhibit F. Proposed form of Time Charter.

Exhibit G. Affidavit of citizenship.

Exhibit H. Amortization schedule of in-
sured mortgage loan repayment
of principal and interest. (To
be furnished.)

Dated: August 31, 1972

LNG TRANSPORT, INC.

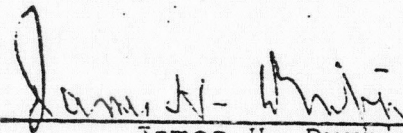
(Name of Applicant)

By James H. Durbin
James H. Durbin, President

Attest:

Hans H. Angermueller
Hans H. Angermueller, Secretary

I, James H. Durbin, do certify that I am the President of Cryogenic Energy Transport, Inc., the Applicant on whose behalf I have executed the foregoing application; that the Applicant is a citizen of the United States within the meaning of Section 2, Shipping Act, 1916, as amended (U.S.C., Title 46, Sec. 802), Sections 37 and 38, Merchant Marine Act, 1920, as amended (U.S.C., Title 46, Sec. 888), and Section 905(c), Merchant Marine Act, 1936, as amended (U.S.C., Title 46, Sec. 1244); that this application is made for the purpose of inducing the United States of America to grant insurance pursuant to the provisions of Title XI of the Merchant Marine Act, 1936, as amended and (except as otherwise required or approved by the Secretary), the rules and regulations prescribed to carry out the provisions of such Title; that I have carefully examined the application and all documents submitted in connection therewith and, to the best of my knowledge, information and belief, the statements and representations contained in said application and related documents are full, complete, accurate, and true.



James H. Durbin

Section 1108 of Title XI of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1277) provides:

"Whoever, for the purpose of obtaining any loan or advance of credit from any person, partnership, association, or corporation with the intent that such loan or advance of credit shall be offered to or accepted by the Secretary of Commerce for insurance, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage insured by the said Secretary of Commerce, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or mortgage, or for the purpose of influencing in any way the action of the said Secretary of Commerce under this title, makes, passes, utters, or publishes, or causes to be made, passed, uttered, or published any statement, knowing the same to be false, or alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper, or document, or utters, publishes, or passes as true, or causes to be uttered, published, or passed as true, any instrument, paper or document knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income, shall be guilty of a misdemeanor and punished as provided under the first paragraph of section 806 (b) of this Act."

EXHIBIT 6 TO NEMIROW AFFIDAVIT - AMENDMENT TO APPLICATION
FOR TITLE XI GUARANTEES DATED SEPTEMBER 15, 1972

SHEARMAN & STERLING

53 WALL STREET

NEW YORK 10005

(212) 483-1000

CABLE: "NUKLATUS" TELEX: ITT 421295 WU 123103

Ex. 6

399 PARK AVENUE
NEW YORK 10022

23, RUE ROYALE
PARIS VII
75010-22
"NUKLATUS PARIS"
TELEX: 842-82286

40 BASINGHALL STREET
LONDON EC2V 8DE
01-628 8865
"NUKLATUS LONDON EC2"
TELEX: 051-884274

September 15, 1972

Maritime Administration
Department of Commerce
Washington, D. C.

Amendment No. 1 to Three (3) Applications
Under Title XI of the Merchant Marine Act,
1936, as Amended, for Ship Mortgage and
Loan Insurance

Dear Sirs:

On behalf of the following Applicant corporations:

Cryogenic Energy Transport, Inc.
Liquegas Transport, Inc.
LNG Transport, Inc.

we herewith file, in triplicate, an executed and verified Amendment No. 1 (including Exhibits F, G-1, G-2, G-3, G-4 and G-5 annexed thereto) to each of said Applicant corporations' Application for ship mortgage and loan insurance under Title XI of the Merchant Marine Act of 1936, as amended, filed with the Maritime Administrator on August 31, 1972, together with 13 conformed copies of each such Amendment No. 1, without exhibits.

Each of the Applicant corporations named above has previously filed on July 14 and August 31, 1972 with the Maritime Subsidy Board an Application under Title V of said Act and an Amendment No. 1 thereto, respectively, for a construction-differential subsidy to aid in the construction of the LNG tanker vessel therein described and is today filing an Amendment No. 2 to such Application.

Should you have any questions or comments with respect to the enclosures, please call (collect) Carl Davis, Esq. of Alvord & Alvord in Washington (EXecutive 3-2266) or Hans H. Angermueller, Esq. or the undersigned (212-483-1000).

Very truly yours,

Richard A. Kalaher

Richard A. Kalaher

AMENDMENT NO. 1

TO

APPLICATION OF LIQUEGAS TRANSPORT, INC.
FOR SHIP MORTGAGE AND LOAN INSURANCE UNDER
TITLE XI OF THE MERCHANT MARINE ACT, 1936,
AS AMENDED

Liquegas Transport, Inc. (herein called the "Applicant") hereby amends and supplements its application (the "Title XI Application") for ship mortgage and loan insurance under Title XI of the Merchant Marine Act of 1936, as amended (the "Act"), filed with the Maritime Administrator on August 31, 1972 as follows (terms defined in the Title XI Application are used herein with the same meaning, unless otherwise indicated, and paragraphs and sections as numbered and lettered herein correspond to such paragraphs and sections in the Title XI Application):

Introduction

The Trustee referred to in paragraph (b) of the Introduction which will administer each Owner trust will be Wilmington Trust Company.

Paragraph (c)(ii) of the Introduction is hereby amended to read and be as follows:

(ii) a loan agreement with the Construction Lenders pursuant to which they will make other loans ("Burmah Guaranteed Loans") to such Owner in an aggregate principal amount equal to the sum of (A) that portion of the "actual cost" of such Vessel which is not covered by the Title XI Insured Loans and (B) interest and commitment fees in respect of the Burmah Guaranteed Loans and other capitalized construction costs of such Vessel not includible in its "actual cost", which Burmah Guaranteed Loans will be guaranteed as to payment by BOT and Burmah and the security for such loans (described in III.A of Schedule I hereto) will be subordinate to the rights of the holder of such security under the Title XI Insured Loans.

I. As to the Applicant: Its Identity

C. 4. The following information with respect to each officer and director of the corporation (each of whom became such on September 13, 1972) (the response to this item is hereby amended to read and be as follows):

<u>Name and Address</u>	<u>Office</u>	<u>Nationality</u>	<u>Capital Shares Owned - Voting Common Stock</u>
Rodney M. Layton Hickory Hill Road Mendenhall, Pa.	President and Director	U.S. Citizen	-0-
Barbara A. McKee 44 Arden Ave. Castle Hills New Castle, Del.	Secretary and Director	U.S. Citizen	-0-
Thomas P. Sweeny 2802 Kennedy Road Tallybrook Wilmington, Del.	Treasurer and Director	U.S. Citizen	-0-

5. Wilmington Trust Company, as the Trustee ("Owner Trustee") referred to in the Introduction hereto which will administer the Owner trust, owns all the issued and outstanding 1000 shares of capital stock of the Applicant. Citicorp Leasing, Inc. and General American Transportation Corporation each have an option to acquire one-half (500 shares) of the capital stock of the Applicant held by the Owner Trustee at its cost. Affidavits as to the U.S. citizenship of the Applicant, Citicorp Leasing, Inc., General American Transportation Corporation and the Owner Trustee are annexed hereto as Exhibits G-1, G-2, G-3 and G-5, respectively.

II. As to the Applicant: Its Business and Affiliations

B. Related Companies

The response to this item is hereby amended to read and be as follows:

As stated in the Introduction, the Other Applicants are affiliates of the Applicant, each being under the common control of the Owner Trustee, its sole stockholder, who is also the sole stockholder of the Applicant. The purposes for which each of the Other Applicants was organized and the date of its organization are the same as the Applicant's, but, in each case, with respect to such Other Applicant's Vessel.

III. As to the Management of the Applicant

A. A brief description of the principal business activities during the past 5 years of each director and each principal executive officer of the Applicant (the response to this item is hereby amended to read and be as follows):

Each officer and director of the Applicant has during the past five years been, and is now,

a partner in the law firm of Richards, Layton & Finger, 4072 DuPont Building, Wilmington, Delaware.

B. The response to this item is hereby amended to read and be as follows:

None.

V. The Project

B.(2) The last sentence in the response to this item is hereby amended to read and be as follows:

The supervising architect will be A. L. Burbank & Co.

VII. As to Schedules and Exhibits

Exhibit F - Proposed form of Time Charter - is attached hereto.

Exhibit G to the Title XI Application is hereby replaced by Exhibits G-1, G-2, G-3, G-4 and G-5 attached hereto which relate to the citizenship of the Applicants, Citicorp Leasing, Inc., General American Transportation Corporation, the

Operator and Wilmington Trust Company,
respectively.

Dated: September 15, 1972

LIQUELAS TRANSPORT, INC.
(Name of Applicant)

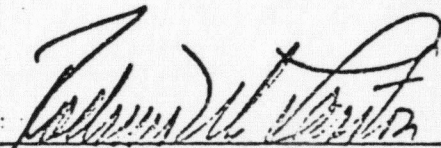
By

Edmund M. Smith
President

Attest:

Bessie A. Miller
Secretary

I, Rodney M. Layton, do certify that I am the President of Liquegas Transport, Inc., the Applicant on whose behalf I have executed the foregoing Amendment No. 1 to the Title XI Application therein referred to; that the Applicant is a citizen of the United States within the meaning of Section 2, Shipping Act, 1916, as amended (U.S.C., Title 46, Sec. 802), Sections 37 and 38, Merchant Marine Act, 1920, as amended (U.S.C., Title 46, Sec. 888), and Section 905(c), Merchant Marine Act, 1936, as amended (U.S.C., Title 46, Sec. 1244); that said Title XI Application, as amended by said Amendment No. 1 thereto (the "Application"), is made for the purpose of inducing the United States of America to grant insurance pursuant to the provisions of Title XI of the Merchant Marine Act, 1936, as amended, and (except as otherwise required or approved by the Secretary), the rules and regulations prescribed to carry out the provisions of such Title; that I have carefully examined the Application and all documents submitted in connection therewith and, to the best of my knowledge, information and belief, the statements and representations contained in said Application and related documents are full, complete, accurate, and true.



Rodney M. Layton

NOTE: The U.S. Criminal Code makes it a criminal offense for any person knowingly to make a false statement or representation to, or to conceal a material fact from, any department or agency of the United States as to any matter within its jurisdiction (18 U.S.C. 1001), or to file a false, fictitious or fraudulent claim against the United States (18 U.S.C. 287).

Section 1108 of Title XI of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1277), provides:

"Whoever, for the purpose of obtaining any loan or advance of credit from any person, partnership, association, or corporation with the intent that such loan or advance of credit shall be offered to or accepted by the Secretary of Commerce for insurance, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage insured by the said Secretary of Commerce, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of the said Secretary of Commerce under this title, makes, passes, utters, or publishes, or causes to be made, passed, uttered, or published any statement, knowing the same to be false, or alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper, or document, or utters, publishes, or passes as true, or causes to be uttered, published, or passed as true, any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income, shall be guilty of a misdemeanor and punished as provided under the first paragraph of section 806 (b) of this Act."

EXHIBIT 7 TO NEMIROW AFFIDAVIT - AMENDMENT TO APPLICATION
FOR TITLE XI GUARANTEES DATED SEPTEMBER 20, 1972RETURN TO
ADMINISTRATOR49
Ex. 7DIVISION OF
OFFICE OF SUPPLY ADMINISTRATION

AMENDMENT NO. 2

TO

APPLICATION OF LIQUEGAS TRANSPORT, INC.
FOR SHIP MORTGAGE AND LOAN INSURANCE UNDER
TITLE XI OF THE MERCHANT MARINE ACT, 1936,
AS AMENDED

Liquegas Transport, Inc. (herein called the "Applicant") hereby amends and supplements its application for ship mortgage and loan insurance under Title XI of the Merchant Marine Act of 1936, as amended (the "Act"), filed with the Maritime Administrator on August 31, 1972, as amended and supplemented by Amendment No. 1 thereto filed with the Maritime Administrator on September 15, 1972 (as so amended and supplemented, the "Title XI Application"), as follows (terms defined in the Title XI Application are used herein with the same meaning, unless otherwise indicated, and paragraphs and sections as numbered and lettered herein correspond to such paragraphs and sections in the Title XI Application):

:

Introduction

With respect to sub-paragraphs (f) and (g) of the Introduction to the Title XI Application, the Operator will, concurrently with the delivery to it of each Vessel, deliver such Vessel for service under a previously executed and approved time charter in substantially the form thereof annexed

as Exhibit F to the Title XI Application, as said Exhibit F is amended in this Amendment No. 2 to the Title XI Application (the "Time Charter"). The time charterer under the Time Charter will be Burmah Oil Incorporated, a Delaware corporation ("BOI") wholly-owned by Burmah. The obligations of BOI under each Time Charter, including the obligation to pay charter hire irrespective of any unavailability or absence of purpose for service thereunder of the Vessel covered thereby, will be unconditionally guaranteed by Burmah. BOI has entered into an agreement with BOT dated as of September 19, 1972 (the "Vessel Management Contract") which provides for, among other things, the time chartering in and the management of, the Vessels in the performance of BOT's obligations under the Transportation Agreement in consideration of BOT's agreement to pay to BOI (a) its actual expenses incurred in the time chartering in, and the management of, the Vessels and (b) twenty percent (20%) of the profits accruing to BOT under the Transportation Agreement.

III. As to the Management of the Applicant.

- A. A brief description of the principal business activities during the past 5 years of each director and each principal executive officer of the Applicant (the response to this item is hereby amended to read and be as follows):

Rodney M. Layton is now, and during the past five years has been, a partner in the law firm of Richards, Layton & Finger, 4072 DuPont Building, Wilmington, Delaware.

Thomas P. Sweeny is now, and since January 1, 1968 has been, a partner of said firm of Richards, Layton & Finger, where he was an associate since February of 1967.

Barbara A. McKee is now, and for the past five years has been, an employee in said firm of Richards, Layton & Finger.

VII. As to Schedules and Exhibits

Exhibit F: The "Time Charterer" referred to on the cover, first and last pages of the proposed form of Time Charter constituting Exhibit F is hereby amended to mean and be Burmah Oil Incorporated, a corporation organized under the laws of the State of Delaware.

Exhibit L: A copy of the Vessel Management Contract is annexed hereto as Exhibit L to the Title XI Application.

Dated: September 20, 1972

LIQUEGAS TRANSPORT, INC.

By _____
President

Attest:

I, Rodney M. Layton, do certify that I am the President of Liquegas Transport, Inc., the Applicant on whose behalf I have executed the foregoing Amendment No. 2 to the Title XI Application therein referred to; that the Applicant is a citizen of the United States within the meaning of Section 2, Shipping Act, 1916, as amended (U.S.C., Title 46, Sec. 802), amended (U.S.C., Title 46, Sec. 888), and Section 905(c), Merchant Marine Act, 1936, as amended (U.S.C., Title 46, Sec. 1244); that said Title XI Application, as amended by said Amendment No. 2 thereto (the "Application"), is made for the purpose of inducing the United States of America to grant insurance pursuant to the provisions of Title XI of the Merchant Marine Act, 1936, as amended, and (except as otherwise required or approved by the Secretary), the rules and regulations prescribed to carry out the provisions of such Title; that I have carefully examined the Application and all documents submitted in connection therewith and, to the best of my knowledge, information and belief, the statements and representations contained in said Application and related documents are full, complete, accurate, and true.

Rodney M. Layton

NOTE: The U.S. Criminal Code makes it a criminal offense for any person knowingly to make a false statement or representation to, or to conceal a material fact from, any department or agency of the United States as to any matter within its jurisdiction (18 U.S.C. 1001), or to file a false, fictitious or fraudulent claim against the United States (18 U.S.C. 287).

Section 1108 of Title XI of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1277), provides:

"Whoever, for the purpose of obtaining any loan or advance of credit from any person, partnership, association, or corporation with the intent that such loan or advance of credit shall be offered to or accepted by the Secretary of Commerce for insurance, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage insured by the said Secretary of Commerce, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of the said Secretary of Commerce under this title, makes, passes, utters, or publishes, or causes to be made, passed, uttered, or published any statement, knowing the same to be false, or alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper, or document, or utters, publishes, or passes as true, or causes to be uttered, published, or passed as true, any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income, shall be guilty of a misdemeanor and punished as provided under the first paragraph of section 806 (b) of this Act."

EXHIBIT 8 TO NEMIROW AFFIDAVIT - LETTER FROM MAR AD TO
THE CRYOGENIC CORPORATIONS DATED SEPTEMBER 22, 1972

Ex. 8

K521

SEP 28 1972

Cryogenic Energy Transport, Inc.
Liquegas Transport, Inc.
LNG Transport, Inc.
10th & Market Street
Wilmington, Delaware

BEST COPY AVAILABLE

Gentlemen:

With respect to the application and the related owner/trust referred to in the application dated August 31, 1972 of Cryogenic Energy Transport, Inc./Liquegas Transport, Inc./LNG Transport, Inc. (Applicant) for construction loan and ship mortgage insurance under Title XI of the Merchant Marine Act, 1936, as amended (Act), to aid in financing construction of three 125,000 cubic meter LNG tank vessels (Vessels), you are advised that on this date the Assistant Secretary of Commerce for Maritime Affairs took the following actions:

I. Approved the Applicant pursuant to Section 1104(a)(1) and 1104(b)(1) of the Act and subject to the execution of the Bareboat Charter, Time Charter, Construction Contract, the Burnah Guarantee described herein and subject to compliance with the other requirements herein stated, as possessing the ability, experience, financial resources and other qualifications necessary to the adequate operation and maintenance of the mortgaged property.

II. Approved the design of the Vessels and found that under the provisions of Sections 1104(a)(2) and 1104(b)(2) of the Act, the Vessels, if constructed substantially in accordance with the Maritime Administration's approved plans and specifications are eligible for construction loans and mortgages which do not exceed 75% of the actual cost of construction.

III. Determined for each of the Vessels, that pursuant to Sections 1101 (f), 1104(a)(2) and 1104(b)(2) of the Act, the actual cost of construction, subject to adjustments as determined by the Chief, Office of Subsidy Administration for the purpose of this commitment, after the application of construction-differential subsidy (CDS) is as follows:

	<u>1 Vessel</u>	<u>3 Vessels</u>
Applicant's Shipyard Price (net of CDS)	\$38,323,465	\$204,970,395
<u>Net of CDS</u>		
Changes and Extras	763,000	2,289,000
Engineering and Inspection	330,633	991,899
Net Interest and Commitment Fees	<u>4,100,000</u>	<u>12,300,000</u>
	\$73,517,098	\$220,551,294

2

On this basis fixed the maximum amount of the proposed loan and mortgage commitment at \$55,137,000 for each Vessel and a total of \$165,411,000 for three Vessels, which amount does not exceed 75% of the aforesaid actual cost.

IV. Excluded from actual cost any foreign items installed on the Vessels, if suitable domestic components, as determined by the Maritime Administration, are available.

V. Waived: (a) the performance bond requirement of Section 298.8(c)(1) of General Order 29, Revised in the Shipyard Contracts between the Applicant and General Dynamics Corporation (Construction Contract) and (b) the requirement for competitive bidding found in Section 298.4(1) of General Order 29, Revised.

VI. Conditionally, approved Summit Marine Operations, Inc. (Summit) as the proposed bareboat charterer under the proposed 20 year Bareboat Charters (Bareboat Charters) with the Applicant.

VII. Prior to the execution of a formal Commitment to Insure Loans/Contract of Insurance of Loans, required Summit to submit a plan satisfactory to the Secretary setting forth in detail its proposal as to how it will develop its organization to permit the Secretary to make a finding that it will have the operating ability, experience and other qualifications necessary to the adequate operation and maintenance of the property.

VIII. Found under Section 1104(c) of the Act, subject to the final award of CDS for each of the Vessels, that the properties or projects with respect to which the loans and mortgages will be executed are in his opinion, economically sound, subject to the execution of the Bareboat Charters, the Time Charters (Time Charters) between Summit and Burmah Oil Incorporated (BOI), a Delaware corporation, and a guarantee by Burmah Oil Company Ltd., a United Kingdom corporation (Burmah Guarantee) guaranteeing the performance of BOI under the Time Charter.

IX. Required the Bareboat Charters be executed in "hell and highwater" form to provide for, among other things, (1) the payment of charter hire pursuant to the terms of the Bareboat Charters on an absolute "hell and highwater" basis; (2) subordination of the Charters to the Mortgage; in form satisfactory to the Secretary; (3) Summit's liability under the Bareboat

4

XIV. Determined for the purpose of the mortgage closings that the qualifying working capital requirements will be in accordance with General Order 29, Revised, or such other amounts as may be determined by the Chief, Office of Subsidy Administration.

XV. Waived the requirements for a reserve fund and covenants regarding working capital and net worth as set forth in Section 293.8(j) and (k) of General Order 29, Revised.

XVI. Approved, pursuant to Sections 9 and 37 of the Shipping Act, 1916, the proposed time chartering of the Vessels for a period of 20 years by Summit to BOI.

XVII. Required the Applicant, Summit and the Lender/Mortgagee/Trustee, when approved, to furnish satisfactory evidence of continuing United States citizenship prior to the initial closing and evidence of continuing United States citizenship at each closing thereafter.

XVIII. Required the Lender/Mortgagee/Trustee be satisfactory to the Maritime Administration.

XIX. Fixed the Applicant's investigation fee, authorized by Section 1104(e) of the Act at \$229,512.64 (less the \$300.00 filing fee previously paid), which amount is to be paid forthwith.

XX. Approved a loan insurance premium rate at $\frac{1}{4}$ of 1% per annum and a mortgage insurance premium rate of $\frac{1}{4}$ of 1% per annum so long as the Bareboat Charters, Time Charters and Purchase Guarantee are in full force and effect. In the event any of these agreements is not in full force and effect, the Secretary may in his sole discretion, give written notice that the premium rate shall be in accordance with the Criteria approved January 28, 1971.

XXI. Waived the provision of Section 293.8(e)(5) of General Order 29, Revised requiring the vesting of title during the construction period in the borrower (Applicant) to provide for title to be held by General Dynamics Corporation, subject to the Applicant obtaining a security interest in the Vessels or component parts under the U.C.C.

XXII. Authorized the Chief, Office of Subsidy Administration to approve the form of and authorize the execution of all appropriate documents and to take such other actions as may be necessary to effectuate the purpose.

3

Charters regardless of default under the Time Charters; (4) no offhire period regardless of cause; and (5) triggering of the Burnah Guarantee by the Secretary in addition to Summit. This means that bareboat charter hire is due and payable under any and all circumstances whatsoever, for the full term of the Bareboat Charters and said charters cannot be terminated prior to the agreed upon termination date - 20 years after Vessel delivery - provided however, said charter hire and charters can terminate prior to their expiration date upon the payment of any insurance (other than Title XI insurance) or other compensation which would satisfy all outstanding Title XI insured indebtedness on the Vessels.

X. Required the Time Charters be executed in "hell and highwater" form to provide for the payment of charter hire pursuant to the terms of the Time Charters on an absolute "hell and highwater" basis with no offhire any cause. This means that time charter hire is due and payable under any and all circumstances whatsoever, for the full term of the Time Charters and said charters cannot be terminated prior to the agreed upon termination date - 20 years after Vessel delivery - provided however, said charter hire and charters can terminate prior to their expiration upon payment of any insurance (other than Title XI insurance) or other compensation which would satisfy all outstanding Title XI insured indebtedness on the Vessels.

XI. Required that the Burnah Guarantee be executed with respect to the Time Charter to provide that Burnah Oil Company Ltd. (Burnah) will unconditionally guarantee the performance of BOI under the Time Charters to pay charter hire and all other obligations of BOI in accordance with the terms of said Time Charters.

XII. Required that any payments, for basic charter hire (to amortize mortgage indebtedness) or otherwise, made by or on behalf of BOI pursuant to the Time Charters be paid to the Lender/Mortgagee/Trustee (Trustee) to be approved by the Maritime Administration and that said Trustee shall disburse said payments first for Title XI insured principal, interest and mortgage insurance premium and thereafter any remainder to Summit or assign.

XIII. Required for the purposes of the Title XI loan and mortgage closings that the Applicant have funds committed or available representing owner's equity in an amount of \$22,310,098 per Vessel (\$66,930,294 for three Vessels) or the difference between the amount of the Title XI insured indebtedness and the capitalizable cost of the Vessels to the Applicant, whichever is greater.

5

XXIII. Required the Applicant, Summit, DOI and Burmah to meet all the requirements of the applicable statutes and regulations in accordance with General Order 29, Revised, or as determined by the Chief, Office of Subsidy Administration.

XXIV. Required that the proposed Construction Contract in form and substance satisfactory to the Maritime Administration between the Applicant and General Dynamics Corporation for the construction of the Vessels be executed within six months of the date of this commitment. If said Construction Contract is not executed within that 6 month time period this commitment will terminate.

XXV. Authorized the execution of a letter to the Applicant, which will constitute a Commitment to Insure Loans and Commitment to Insure Mortgages, subject to the conditions set forth therein.

Sincerely,

JAMES S. DAWSON, JR.
Secretary

cc:
520
521
120

Fitzgerald/ckw 9-28-72

A-389

EXHIBIT 9 TO NEMIROW AFFIDAVIT - AMENDED APPLICATION OF
CHEROKEE II DATED OCTOBER 11, 1973

CHEROKEE II SHIPPING CORP.

AMENDED APPLICATION FOR LOAN GUARANTEES
UNDER TITLE XI, MERCHANT ACT, 1936, AS
AMENDED AND THE RULES AND REGULATIONS
PRESCRIBED TO CARRY OUT THE PROVISIONS
OF THE ACT.

October , 1973

This Amendment supercedes the prior Application filed on August 8, 1973.

INTRODUCTION

(Brief Description of the Transaction)

Cherokee II Shipping Corp. (herein called the "Applicant") previously filed on August 8, 1973 an Application under Title XI of Merchant Marine Act, 1936, as amended (the "Act"), with the Secretary of the Maritime Administration for guarantees with respect to financing the construction of a 125,000 cubic meter LNG tanker vessel. Three substantially similar applications were filed under Title XI of the Act on August 8, 1973 by Cherokee I Shipping Corp., Cherokee III Shipping Corp., and Cherokee IV Shipping Corp. and amendments thereto are being filed this date, sometimes referred to as the ("Applications"), affiliates of the Applicant (the "Other Applicants" and, together with the Applicant, collectively referred to herein as the "Applicants"), with respect to three identical LNG tanker vessels (herein, together with the aforementioned vessel, collectively the "Vessels" and individually a "Vessel"). Information provided in this and such other applications in respect of the "borrower" relates solely to the Applicant and the Other Applicants respectively. This and such other applications will each be further amended to provide information in respect of the ultimate "mortgagor" and "borrower" upon the formation of the trust which will constitute the Owner (as such term is hereinafter defined) of the Vessel.

Upon completion of the construction of each Vessel, it is intended to be used for the transportation of liquefied natural gas ("LNG") from Indonesia to Japan pursuant to an agreement (the "Transportation Agreement") entered into on September 23, 1973 by Burmast East Shipping Corporation, a Liberian Corporation ("Burmast"), and Perusahaan Pertambangan Minyak Dan Gas Bumi Negara, an Indonesian corporation ("Pertamina"), a copy of which is annexed hereto as Confidential Exhibit G. Burmast is a subsidiary of Burmah Oil Tankers Limited, a Bermuda Corporation, (BOT) 57 1/2% of the stock being owned by BOT. The performance of Burmast's obligations under the Transportation Agreement may be guaranteed by The Burmah Oil Company Limited, a Scottish corporation ("Burmah"), which owns 100% except for directors' qualifying shares, of the issued and outstanding shares of Burmah Oil Trading Limited, an English corporation, which in turn owns 100%, except for directors' qualifying shares, of the issues and outstanding shares of BOT. The obligations of Burmast under the Transportation Agreement will be performed by a domestic subsidiary or affiliate of BOT as Time Charterer of the Vessels (as more fully described herein) under a Vessel Management Agreement to be entered into between said subsidiary and Burmast prior to the delivery date of the Vessels.

It is contemplated that the Vessels will be constructed, delivered, owned, chartered, and employed pursu-

- (a) As promptly as practicable four trusts (the "Owners") will be established by certain institutional investors acceptable to BOT (the "Owner Participants") which trust will be administered by a banking or trusts institution, as trustee. Each Owner and Owner Participant will qualify as a United States citizen within the meaning of Section 2 of Shipping Act, 1916, as amended. A copy of any commitment letter from the Owner Participant's confirming their willingness to create the Owners and to contribute the equity referred to in (e) below will be annexed hereto as Exhibit 1 as soon as such letter has been executed and delivered by said Owner Participants.
- (b) Each Applicant has entered into a construction contract with General Dynamics Corporation (the "Shipbuilder") for the construction, at Shipbuilder's Quincy, Massachusetts, shipyard, of the Vessel in respect of which such Applicant has filed its Application (herein collectively called the "Construction Contracts"). A copy of said Construction Contract is annexed hereto as Exhibit H. Subject to the consent of the Maritime Administration and the Shipbuilder, said Construction Contracts will be assigned and

transferred as promptly as practicable to the related Owner, and any other action taken such so that all of the rights and obligations under this application and the Construction Contracts will be held by said Owner. The Vessels are scheduled to be delivered in late-1976, early-1977, late-1977 and mid-1978, respectively.

- (c) Each Owner will borrow funds sufficient to finance the capitalized cost of its Vessel during construction pursuant to:

- (1) a loan agreement with a commercial banking institution as agent (in such capacity, the "Agent") for itself and certain other commercial banking institutions (said bank and such other banks being referred to as the "Construction Lenders") pursuant to which the Construction Lenders will make loans which are to be guaranteed pursuant to Title XI of the Act ("Title XI Guaranteed Loans") to such Owner in an aggregate principal amount not exceeding 87 1/2% of the "Actual Cost" of such Vessel, as such term is defined in the Regulations

which is esimated to be \$101,000,000 inclusive of estimated interest and commitment fees payable in respect of said Title XI Guaranteed Loans, the principal of, and interest on, which loans are, subject to the approval of such Owner's Application; and

- (ii) a loan agreement with the Construction Lenders, pursuant to which the Construction Lenders will make additional loans ("Burmah Guaranteed Loans") to such Owner in an aggregate principal amount equal to the sum of (A) that portion of the Actual Cost of such Vessel which is not covered by the Title XI Guaranteed Loans, (B) other capitalized costs of the construction of such Vessel not includible in its Actual Cost and (C) interest and commitment fees in respect of said Burmah Guaranteed Loans. Such Burmah Guaranteed Loans will be guaranteed as to payment by Burmah,

and the security for such loans will be subordinate to the rights of the United States as guarantor of the Title XI Guaranteed Loans. A copy of the letter of commitment confirming the willingness of the Construction Lenders to make available the Title XI Guaranteed Loans and Burmah Guaranteed Loans will be annexed hereto as Exhibit C-1 to Schedule I as soon as such letter has been executed and delivered.

- (d) The Burmah Guaranteed Loans will be taken down and made in respect of any Vessel before any Title XI Guaranteed Loans are taken down and made with respect to that Vessel. The proceeds of all Title XI Guaranteed Loans will be applied solely to the making of payments of the Actual Cost of the Vessels. If any additional amounts are required to be paid in connection with any Vessel, such additional costs will be covered by the proceeds of the Burmah Guaranteed Loans.
- (e) Upon the delivery of each Vessel, such Vessel will be documented under the laws and flag of

the United States in the name of the applicable Owner and subjected to the lien of a first preferred ship mortgage in favor of the United States as security for its guarantee of the obligations (bonds) issued by such Owner on or prior to said delivery date, pursuant to Title XI of the Act. Concurrently, the Owner Participants will contribute to such Owner, as equity (which equity may, at the option of an Owner Participant, be borrowed from intercompany or outside sources, which borrowings will be subordinated to the Title XI Bonds referred to below), at least 12 1/2% of the total capitalized cost of such Vessel. Underwriters will, upon or prior to the delivery date of the Vessel, arrange for the issuance and sale (either by public or private sale as market conditions may then dictate) by such Owner of its long-term guaranteed bonds, in an amount not exceeding 87 1/2% of the Actual Cost of the Vessel the principal of and interest on which is to be guaranteed under Title XI of the Act (the "Title XI Bonds"). The interest rate on the Title XI Bonds will be a fixed rate which, in the opinion of the underwriters, will be the best obtainable in light of the then prevailing market conditions. The proceeds of the Title

Bonds, together with the contributions of the Owner Participants, will be applied, pursuant to Section 1104(a)(1) of the Act, first to the repayment of the Title XI Guaranteed Loans and second to the repayment of the Burmah Guaranteed Loans.

- (f) Simultaneously with the delivery of such Vessel, the applicable Owner will demise charter the Vessel, pursuant to a previously executed demise charter approved by the Maritime Administration (the applicable "Demise Charter") to a special purpose corporation to be formed and to be a subsidiary of Energy Transportation Corporation, a Delaware corporation (the "Demise Charterer") which will be a United States citizen within the meaning of Section 2 of the Shipping Act, 1916, as amended.
- (g) Simultaneously with the delivery of each Vessel and the demise chartering thereof to the Demise Charterer, the Demise Charterer will Time Charter the Vessel to a subsidiary or affiliate of BOT, incorporated under the laws of a state of the United States (the "Time Charterer"), under a previously executed and Maritime Administration approved time charter, having the same basic terms and exten-

sion options as the Demise Charter covering such Vessel as well as certain demise charter features relating to charter hire ("hell and high water") (the applicable "Time Charter"). The obligations of the Time Charterer under each Time Charter, including the obligations to pay charter hire, will be unconditionally guaranteed by Burmah.

- (h) Burmast and the Time Charterer will enter into a vessel management agreement (the "Vessel Management Agreement"), in substantially the form which will be annexed hereto by Amendment as Exhibit K. The Vessel Management Agreement will, among other things provide for the Time Charterer to enter into the time charters in respect of the Vessels and the management of the Vessels for the benefit and account of Burmast. In exchange, Burmast will agree to pay to the Time Charterer all charter hire, other expenses incurred in connection therewith and any other amounts payable by the Time Charterer pursuant to the Time Charter plus an agreed-upon percentage of Burmast's "Transportation Profit" (being Burmast's net profit derived from transportation LNG pursuant to the Transportation Agreement).

PART I - SUMMARY INFORMATION

Name of Applicant

Cherokee II Shipping Corp.

Street Address

c/o The Corporation Trust Company
100 West Tenth Street

City and State

Wilmington, Delaware

Name of Proposed Lenders

To be designated

Street Address

To be designated

City and State

To be designated

Nature of Application

Guarantees of loans and long-term obligations

The Proposed Loans:

(a) Types of Loans -

Construction Loans during the construction of the Vessel and thereafter Title XI Bonds

(b) Kinds of Obligations to Evidence the Loans

- Loan Certificates and Title XI Bonds -

The Loan Certificates (evidencing the Construction Loans) will be privately placed through the lending agency to be identified in Schedule I attached hereto, to be supplied

at a later date.. The Title XI Bonds will be sold upon or prior to the delivery date of the Vessel privately or publicly as market conditions at the time of their issuance then warrant.

- (c) Purpose - Pursuant to Section 1104(a) of the Act, the Title XI Guaranteed Loans will be used to aid in the financing of the construction cost of the Vessel and the proceeds of the sale of the Title XI Bonds will be used to repay the Title XI Guaranteed Loans upon delivery of the Vessel.
- (d) Amount of Loans - Approximately \$88,375,000 which is 87 1/2% of the estimated Actual Cost of the Vessel.
- (e) Periods of Loans - It is proposed that the Burmah Guaranteed Loans (not Title XI Guaranteed) be made before any Title XI Guaranteed Loans are made. The Title XI Bonds will have a maturity of either 20 or 25 years from the delivery of the Vessel depending on the terms of the Transportation Agreement, Demise Charter and Time Charter.
- (f) Interest Rates - The rate of interest in respect of the Title XI Guaranteed Loans

will be a fixed rate, to be furnished at a later date, and will be the best rate then available for short-term loans, as supported by Exhibit C hereto, to be furnished at a later date. The rate of interest in respect of the Title XI Bonds will be the best obtainable rate for long-term government guaranteed debt obligations at the time of their issuance.

- (g) Amortization Schedule - The Title XI Guaranteed Loans are payable on the delivery date of the Vessel. It is anticipated that the Title XI Bonds will be repaid in either 40 or 50 semiannual installments in arrears under a level debt payment program (including principal and interest) as more fully described in Exhibit I hereto, to be supplied when financial negotiations are completed with the Owner Participants. A pro-forma schedule of the Title XI Bond amortization will be annexed hereto as Exhibit F to this Application.

- (h) Type of Vessel - The Vessel will be a

125,000 cubic meter LNG capacity Vessel, MA Design LG8-S-102(a), utilizing the Moss-Rosenberg system of LNG containment at - 260°F in pressurized spheres. The Vessel will have an estimated overall length of 936'2", a beam of 143'10", an operating draft of 36'0", a full load displacement of 94,600 tons, a dead-weight tonnage of 63,600 tons and a service speed of approximately 19 knots.

PART II - APPLICATION

The undersigned Applicant hereby applies to the United States of America, represented by the Secretary of Commerce, acting by and through the Maritime Administrator (herein referred to as the "Secretary"), under the Act and Regulations for the guarantee by the Secretary of:

- (a) the interest on and the unpaid balance of the principal of Title XI Bonds in the approximate original principal amount of \$88,375,000 to be issued by the Owner,
- and
- (b) the interest on and the unpaid balance of principal of a loan in the approximate original principal amount of \$88,375,000 to be made to the Owner by the Construction Lender.

for the purposes and upon the terms and conditions herein set forth, including the annexed Schedules and Exhibits, and subject to all the provisions of the Act and the Regulations. In support of this application, the Applicant submits the following information, in addition to that stated in Part I hereof:

I. As to the Applicant: Its Identity

A. Not Applicable.

B. Not Applicable.

C. Incorporated Companies

1. Exact Name of Applicant

Cherokee II Shipping Corp.

2. State in which Incorporated and
Date of Incorporation

Delaware - August 3, 1973

3. Address of Principal Executive Offices
and Important Branch Offices, if any:

c/o The Corporation Trust Company
100 West Tenth Street
Wilmington, Delaware

4. The following information with respect to
each officer and director of the corporation

<u>Name and Address</u>	<u>Office</u>	<u>Nationality</u>	<u>Shares Owned</u>
C. Y. Chen Larger Cross Rd. Far Hills, N.J.	Chairman of the Board, Chief Executive Officer and Director	USA	0
Joseph J. Cuneo 72 Greenacres Searsdale, N.Y.	President and Director	USA	0

74 Highland Ave. Montclair, N.J.	Treasurer and Director		
Steve C. Dune 214 Grosvenor St. Douglas Manor, N.Y.	Secretary and Director	USA	0
Theodore A. Ulrich 157 Luquer Rd. Port Washington, N.Y.	Assistant Secretary	USA	0

5. Energy Transportation Corporation owns 100% of the capital shares of the Applicant.

6. Not applicable.

II. As to the Applicant: Its Business and Affiliations

A. Principal Business Activities

The Applicant was organized on August 3, 1973 for the following purposes:

- (1) To enter into the Construction Contract and negotiate for and implement the construction and long-term financing arrangements as to the Vessel;
- (2) To make applications (including this application) to the appropriate governmental agencies with respect to the construction, chartering and financing of the Vessel;
- (3) To do such other acts and things as may be necessary or advisable to accomplish the foregoing.

B. Related Companies

As stated in the Introduction, the Other Applicants are affiliates of the Applicant, each

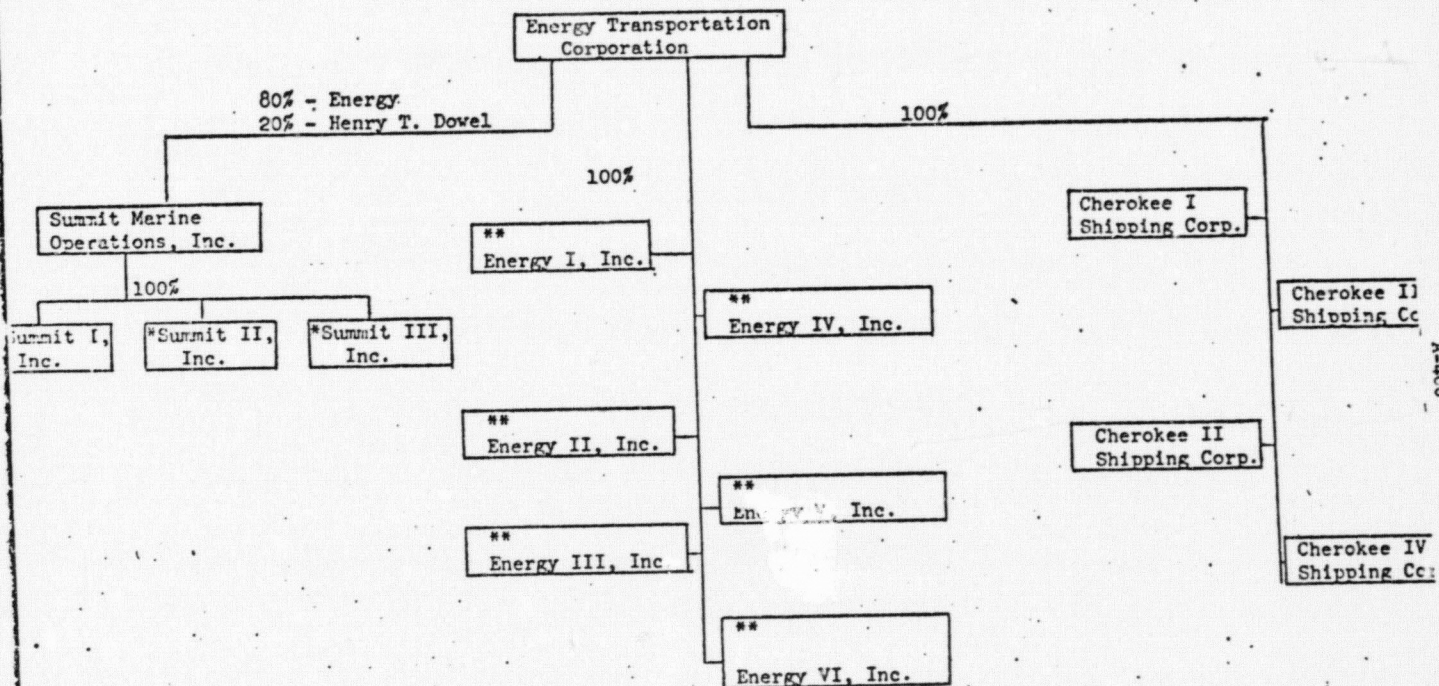
being under the common control of Energy Transportation Corporation, a Delaware corporation, the sole stockholder, which is also the sole stockholder of the Applicant. The purposes for which each of the Other Applicants was organized and the date of its organization are the same as the Applicant's, but, in each case, with respect to such Other Applicant's Vessel.

With respect to the United States Citizenship of Energy Transportation Corporation, reference is made to the Affidavit of United States Citizenship of said corporation, dated June 5, 1973, and presently on file with the Maritime Administration.

Annexed hereto is a chart depicting the related companies of the Applicant, all of which are or will be engaged in the chartering and operation of vessels.

- C. None of the Applicants nor any predecessor or related company has ever been in bankruptcy or in reorganization under Section 77-B of the Bankruptcy Act or in any other insolvency or reorganization proceedings.
- D. None of the Applicants nor any predecessor or related company has ever been in default under any agreement or undertaking with others or with the United States or guaranteed or insured by the United States.

RELATED COMPANIES



* To be formed
 ** Inactive

A-405

III. As to the Management of the Applicant

A. A brief description of the principal business activities during the past 5 years of each director and each principal executive officer of the Applicant:

C. Y. Chen - Chairman of the Board, Chief Executive Officer and Director - Dr. Chen is and has been since its formation Chairman of the Board of Energy Transportation Corporation. Dr. Chen is also Chairman of the Board and Chief Executive Officer of Marine Transport Lines and most of its affiliated group of companies and a Director of General American Transportation Corporation. Dr. Chen has been acting in the top executive levels of Marine Transport Lines over the past five years.

Joseph J. Cuneo - President and Director - Mr. Cuneo is and has been since its formation President of Energy Transportation Corporation. Prior to assuming that position, Mr. Cuneo was President of John J. McMullan Associates, Inc. and prior to that was Vice President of Marine Transport Lines.

Jerome Shelby - Vice President, Treasurer and Director - Mr. Shelby is and has been

for the past five years a partner in Cadwalader, Wickersham & Taft, a law firm located at One Wall Street, New York, N.Y.

Steve C. Dune - Secretary and Director -

Mr. Dune is and has been for the past five years a partner in Cadwalader, Wickersham & Taft, a law firm located at One Wall Street, New York, N.Y.

- B. As noted in the Introduction hereto, each of the Other Applicants is under the common control of Energy Transportation Corporation, the sole stockholder of the Applicant, and the officers and directors of each thereof are the same as those of the Applicant. See Item II (B).
- C. There are no affiliations or relationships between the Applicant and any of its directors or principal executive officers, on the one hand, and on the other hand, the Shipbuilder and any of its directors and principal executive officers.

- D. Name, citizenship, education, background of, and licenses held by all shore management personnel with the physical operation of the Vessel.

As stated in the Introduction hereto, it is contemplated that the Vessel will be chartered to the Demise Charterer under the Demise Charter which will in turn charter the Vessel to the Time Charterer. Accordingly, the Owner will

not engage any shore management personnel for operation of the Vessel. However, shore management personnel will be engaged by the Demise Charterer. Information in respect of the shore management personnel of the Demise Charterer and in respect of union affiliations, collective bargaining agreements with the Demise Charterer and companies for whom the Demise Charterer acts as agent will be annexed hereto as Exhibit J to this Application as soon as said Demise Charterer has been formed and its composition is known.

IV. As to the Applicant: Its Property and Activities

A. A brief description of the general character and location of the principal properties of the Applicant employed in its business other than vessels.

The Applicant owns no tangible property.

B. A statement with respect to each vessel owned by the Applicant, or operated by it under charter.

The Applicant does not presently own or operate under charter any vessels.

C. Not Applicable.

D. Not Applicable.

V. The Project

- A. The purpose for which the proposed Title XI Guaranteed Loans will be expended with reference to Section 1104(a)(1) of the Act is to finance 87 1/2% of the Actual Cost of the Vessel during the period of its construction. The purpose for which the proceeds of the proposed Title XI Bonds will be expended with reference to Section 1104(a)(1) of the Act is to repay the Title XI Guaranteed Loans.
- B. (1) The total estimated capitalizable cost of the construction of the Vessel as proposed is approximately \$101,000,000 of which \$94,000,000 is the estimated shipyard contract price, with the balance consisting of estimated interest, commitment fees and other costs payable during construction of the Vessel, including the Maritime Administration investigation fee, legal fees, investment underwriting cost, printing expenses, accounting fees, overhead and construction supervision costs and other miscellaneous fees and costs. A breakdown of the foregoing is shown in Exhibit B attached hereto. There are no shore facilities, cargo containers, or other

capital expenditures planed by the Applicant in conjunction with the project. As stated in the Introduction hereto, that portion of the cost during the construction of the Vessel which will not be financed by the Title XI Guaranteed Loans, and, after delivery, that portion of the aggregate amount of principal and interest payable under the Title XI Guaranteed Loans and Burmah Guaranteed Loans which will not be refinanced by the net proceeds of the Title XI Bonds will be contributed to the Owner by the Owner Participants as equity and applied to such refinancing.

The Applicant contemplates that the Construction Lenders will make all of the Title XI Guaranteed Loans and Burmah Guaranteed Loans. Substantially definitive and final forms of the loan agreements providing for the Title XI Guaranteed Loans and the Burmah Guaranteed Loans will be annexed hereto as Exhibits C-2 and C-3, respectively, to Schedule I, as soon as the same are available.

The Owner Participants will contribute to the Owner upon the delivery date of the Vessel at least that portion of principal and interest payable under the Title XI Guaranteed Loans and Burmah Guaranteed Loans which will not be refinanced by the proceeds of the Title XI Bonds.

It is contemplated that, subject to the granting of this application, the Owner will issue and sell, by either public or private sale, the Title XI Bonds through underwriters to be designated.

- (2) A table of estimated vessel characteristics is annexed as Schedule II hereto. The supervising architect will be determined at a later date and information as to such person will be supplied.

Schedule III hereto has been omitted and in lieu thereof reference is made to MA design LG8-S-102(a) and the preliminary design specifications relating to MA Hull Nos. 177, 180 and 183.

- C. Not Applicable.
- D. A comparison of the characteristics of the Vessel will indicate the Vessel's conformity

with the requirements of Sections 1(a) and 4 of the letter of intent annexed hereto as Confidential Exhibit G.

E. Description of proposed operations

- (1) - (5) See Exhibit D hereto.
- (6) See subparagraphs (f) and (g) of the Introduction hereof and Exhibit E hereto for the citizenship affidavit in respect of the Applicant.
- (7) Not Applicable.
- (8) Not Applicable.

F Forecast of operations

- (1) - (5) See Exhibit D hereto.

G. Construction Contract

General Dynamics has been awarded the contract for the construction of the Vessel. A signed copy of the construction contract is appended hereto as Exhibit H.

H. New Service

As stated in the Introduction and Exhibit D hereto, it is proposed to utilize the Vessels in a new liquefied natural gas transport service between (a) East Kalimantan and/or North Sumatra, Indonesia, as the loading ports, and (b) Kyushu Osaka and, Nagoya, Japan, as the discharge ports.

I. Not Applicable.

J. Not Applicable.

K.

VI. Fees and Charges

Fees and charges to be capitalized in connection with construction of the Vessel are presently estimated to be as follows:

- (1) Maritime Administration investigation fees incurred in connection with this application \$70,000
- (2) Fees payable to underwriters in connection with the public or private placement of the Title XI Bonds (calculated at an estimated 3/4 of 1% of the amount thereof, subject to adjustment in light of prevailing market conditions, including underwriters fees) . . \$662,811
- (3) Printing costs \$100,000
- (4) Fees for counsel to the Applicant, the

Lending Agency referred to in Schedule I
 hereto, the Owner Participants and the
 underwriters referred to in (2) above . . . \$250,000
 (5) Accounting fees \$ 87,000

VII. As to Schedules and Exhibits

A. List of Schedules and Exhibits

(It is requested that confidential treatment be accorded to Schedule I and Exhibits B, D, G, H, I, J and K hereto.)

Schedule I. The lender's statement in support of this application. (The statement in support of this application in respect of the Title XI Bonds, and the Exhibits thereto, will be furnished later).

Schedule II. Table of characteristics.

Schedule III. Preliminary design information.
 Omitted. Reference is made in lieu thereof to MA design LG8-S-102a and the preliminary design specifications relating to MA Hulls Nos. 177, 180 and 183.

Exhibit A-1. Copy of the Certificate of Incorporation of the Applicant.

Exhibit A-2. Copy of the By-Laws, as amended,

of the Applicant.

Exhibit B. (1) Detailed supports of item

B(1) of Section V.

- (a) Reconciliation of the total, estimated capitalizable costs of construction of the Vessel to the Applicant during the construction period.
- (2) Balance sheets and profit and loss statements.
- (3) Pro-forma balance sheet of the Owner as of the date of assumption of insurance liability by the Government.
- (4) Pro-forma profit and loss projection of the Owner for at least five years of operation.
- (5) Pro-forma schedules of depreciation on the Vessel on:
 - (a) book basis, and
 - (b) tax basis.(To be submitted later.)
- (6) Pro-forma schedule of debt amortization (other than for guaranteed loans).
(Not applicable since no other debt will be incurred).

Exhibit C. Justification for rate of interest for Title XI Guaranteed Loans and for Title XI Bonds and support of best rates obtainable. (To be furnished at the respective times such rates are established.)

Exhibit D. Forecase of Operations.

Exhibit E. Affidavit of citizenship of Applicants.

Exhibit F. Amortization schedule of Title XI Bonds repayment of principal and interest. (To be furnished).

Exhibit G. Transportation Agreement.

Exhibit H. Construction Contract.

Exhibit I. Commitment of the Owner Participants to contribute to the Owner upon delivery by the Shipbuilder to it of the Vessel at least that portion of principal and interest payable under the Title XI Guaranteed Loans and Burmah Guaranteed Loans which will not be refinanced by the proceeds of the Title XI Bonds. (To be furnished).

Exhibit J. Information as to Demise Charterer's shore management personnel, union affiliations, collective bargaining agreements and companies for whom the Operator acts as agent. (To be furnished.)

Exhibit K. Form of the Vessel Management Contract. (To be furnished.)

Exhibit L. Non-Recourse Letters.

Exhibit M. Affidavit of United States Citizenship of Cherokee II Shipping Corp.

Dated: October 11, 1973

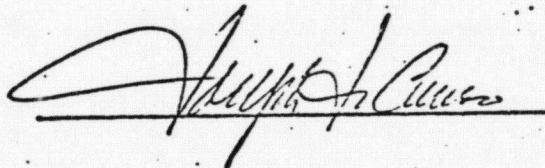
CHEROKEE II SHIPPING CORP.

By Joseph J. Cuneo
Joseph J. Cuneo, President

Attest:

Steve C. Dunc
Steve C. Dunc, Secretary

I, Joseph J. Cuneo, do certify that I am the President of Cherokee II Shipping Corp., the Applicant ✓ on whose behalf I have executed the foregoing application; that the Applicant is a citizen of the United States within the meaning of Section 2, Shipping Act, 1916, as amended (U.S.C., Title 46, Sec. 802), Sections 37 and 38, Merchant Marine Act, 1920, as amended (U.S.C., Title 46, Sec. 888), and Section 905(c), Merchant Marine Act, 1936, as amended (U.S.C., Title 46, Sec. 1244); that this application is made for the purpose of inducing the United States of America to issue its guarantee pursuant to the provisions of Title XI of the Merchant Marine Act, 1936, as amended, and (except as otherwise required or approved by the Secretary), the rules and regulations prescribed to carry out the provisions of such Title; that I have carefully examined the application and all documents submitted in connection therewith and, to the best of my knowledge, information and belief, the statements and representations contained in said application and related documents are full, complete accurate, and true.

A handwritten signature in dark ink, appearing to read "Joseph J. Cuneo", is written over a horizontal line.

A-420

Received
4:30 p m.
Aug 8, 1973
Jed. Luty

APPLICATION FOR LOAN GUARANTEES UNDER TITLE
XI, MERCHANT MARINE ACT, 1936, AS AMENDED
(46 U.S.C. 1271-1279a; THE "ACT"), AND THE
RULES AND REGULATIONS PRESCRIBED TO CARRY
OUT THE PROVISIONS OF THE ACT (46 C. F. R.
298; THE "REGULATIONS").

CHEROKEE II SHIPPING CORP.

August 8, 1973

INTRODUCTION

Cherokee II Shipping Corp. (herein called the "Applicant") is filing this application under Title XI of the Act with the Maritime Subsidy Board (the "Board") for loan guarantees with respect to financing the construction of an LNG tanker vessel to be used in accordance with the requirements of the Act and the Regulations. Concurrently with the filing of this application, three applications under Title XI of the Act for loan guarantees substantially similar to this application (herein, together with this application, sometimes individually referred to as an "Application") are being filed by Cherokee I Shipping Corp., Cherokee III Shipping Corp. and Cherokee IV Shipping Corp., affiliates of the Applicant (the "Other Applicants" and, together with the Applicant, collectively the "Applicants"), with respect to three identical LNG tanker vessels (herein, together with the aforementioned vessel, collectively the "Vessels" and individually a "Vessel"). Information provided in this and such other applications in respect of the "Borrower" relates solely to the Applicant and the Other Applicants, respectively. This and such other applications will each be amended to provide information in respect of

the actual "Borrower" upon the formation of the Owner (as such term is hereinafter defined) of the Vessel in respect of which such application is being made.

Upon completion of the construction of each Vessel, it may be used for the transportation of liquefied natural gas ("LNG") from Indonesia to Japan pursuant to an agreement (the "Transportation Agreement") proposed to be entered into on or before September 12, 1973 by an affiliate (the "Affiliate") of Burmah Oil Tankers Limited, a Bermudian corporation ("BOT"), and Perusahaan Pertambangan Minyak Dan Gas Bumi Negara ("Pertamina") and/or Far East Oil Trading Company Ltd., respectively Indonesian and Japanese corporations, the terms of which are to be negotiated as confirmed by the letter of BOT to Pertamina, dated May 31, 1973, a copy of which is annexed hereto as Confidential Exhibit G. The performance of the Affiliate's obligations under the Transportation Agreement may be guaranteed by The Burmah Oil Company Limited, a Scottish corporation ("Burmah"), which owns 100%, except for directors' qualifying shares, of the issued and outstanding shares of Burmah Oil Trading Limited, an English corporation, which in turn owns 100%, except for directors' qualifying shares, of the issued and outstanding shares of BOT.

It is contemplated that the Vessels will be constructed, delivered, owned, chartered, and employed pursuant to the following arrangements:

- (a) As promptly as practicable four trusts (the "Owners") will be established by certain institutional investors to be designated by BOT (the "Equity Investors") which will be administered by a trust institution, as trustee, to be designated by BOT. Each Owner and Equity Investor will qualify as a U.S. citizen within the meaning of Section 2 of the Shipping Act, 1916, as amended. A copy of a letter from the Equity Investors confirming their willingness to create the Owners and to contribute the equity referred to in (e) below will be annexed hereto by amendment as Exhibit I as soon as such letter has been executed and delivered by the Equity Investors.
- (b) Each Applicant will, on or before September 15, 1973, enter into a contract with General Dynamics Corporation (the "Builder") for the construction at the Builder's Quincy,

Massachusetts, shipyard of the Vessel in respect of which such Applicant has filed its Application (collectively, the "Construction Contracts"). The Builder has by letter dated June 29, 1973 (the "Letter of Intent") confirmed to BOT its intention to enter into each Applicant's construction contract, subject to the conditions therein stated. A copy of the Letter of Intent is annexed hereto as Exhibit H. Subject to the consent of the Board and the Builder, all of the capital stock of the Applicant will be assigned and transferred as promptly as practicable to the related Owner or other action taken so that all of its rights and obligations under this application and the Construction Contracts shall be held by the related Owner. The Vessels are scheduled to be delivered in mid-1976, late-1976, mid-1977 and late-1977, respectively.

- (c) Each Owner will borrow funds sufficient to finance the capitalized cost of its Vessel during construction pursuant to:

(i) a proposed loan agreement with

a commercial banking institution (to be designated by BOT) as agent (in such capacity the "Agent") for itself and certain other commercial banks (said bank and such other banks being herein referred to as the "Construction Lenders") pursuant to which the Construction Lenders will make loans ("Title XI Guaranteed Loans") to such Owner in an aggregate principal amount not exceeding 75% of the "actual cost" (used herein as such term is defined in the Regulations) of such Vessel, which, at the date of filing hereof, is estimated to be \$107,350,000, inclusive of estimated interest and commitment fees to be payable in respect of the Title XI Guaranteed Loans, the principal of, and interest on, which loans are, subject to the approval of such Owner's Title XI application, to be guaranteed under Title XI of the Act; and

(ii) a proposed loan agreement with the Agent and the Construction Lenders, pursuant to which the Construction Lenders will make other loans ("Burmah Guaranteed Loans")

to such Owner in an aggregate principal amount equal to the sum of (A) that portion of the "actual cost" of such Vessel which is not covered by the Title XI Guaranteed Loans and (B) interest and commitment fees in respect of the Burmah Guaranteed Loans and other capitalized construction costs of such Vessel not includible in its "actual cost", which Burmah Guaranteed Loans will be guaranteed as to payment by Burmah, and the security for such loans will be subordinate to the rights of the United States as guarantor of the Title XI Guaranteed Loans. A copy of the letter of commitment confirming the willingness of the Construction Lenders to make available the Title XI Guaranteed Loans and Burmah Guaranteed Loans will be annexed hereto as Exhibit C-1 to Schedule I as soon as practicable after the execution and delivery thereof by the Agent and/or the Construction Lenders.

- (d) Substantially all of the Burmah Guaranteed

Loans will be taken down and made in respect of a Vessel before any Title XI Guaranteed Loans are taken down and made with respect to the same Vessel. It is presently anticipated that the Burmah Guaranteed Loans will be adequate to cover all progress payments due in respect of each Vessel through a period ending eighteen months prior to the delivery of each Vessel, and that consequently no Title XI Guaranteed Loans need be taken down or made until, January 2, 1975. The proceeds of all Title XI Guaranteed Loans will be applied solely and exclusively to the making of payments of the "actual cost" of the Vessels. If any additional amounts are required to be paid in connection with any Vessel, such additional costs will be covered by the proceeds of the Burmah Guaranteed Loans.

- (e) Immediately after the delivery of each Vessel, such Vessel will be documented under the laws and flag of the United States in the name of the applicable Owner and subjected to the lien of a first preferred ship

mortgage in favor of the United States as security for its guarantee applied for herein. Concurrently, the Equity Investors will contribute to such Owner, as equity (which equity may, at the option of the Equity Investors, be represented by such Owner's debt obligations issued to the Equity Investors, which obligations will be unsecured and fully subordinated to the Title XI Bonds referred to below), between 25% to 35% of the total, capitalized cost of such Vessel. Underwriters of recognized standing will, upon or prior to such delivery, arrange for the issuance and sale (either by public or private sale as market conditions may then dictate) by such Owner of its long-term guaranteed bonds, the principal of and interest on which is, subject to the approval of such Applicant's Application, to be guaranteed under Title XI of the Act (the "Title XI Bonds"). The aggregate principal amount of the Title XI Bonds will be in compliance with the applicable provisions of the Act and the Regula-

tions. The interest rate on the Title XI Bonds will be a fixed rate which, in the opinion of the underwriters, will be the best obtainable in light of then prevailing market conditions. The proceeds of the Title XI Bonds, together with the contributions of the Equity Investors, will be applied, pursuant to Section 1104(a)(1) of the Act, first to the repayment of the Title XI Guaranteed Loans and second to the repayment of the Burmah Guaranteed Loans.

- (f) Concurrently with the delivery of such Vessel, the applicable Owner will deliver its Vessel under a bareboat charter previously executed by such Owner and approved by the Maritime Administration (the applicable "Bareboat Charter") to a corporation (the "Operator"), to be designated by BOT, incorporated under the laws of a state in the United States, all of the issued and outstanding capital stock of which is (and will continue to be, so long as the below-mentioned Time Charter is in effect) owned by U.S. citizens within

the meaning of Section 2 of the Shipping Act, 1916, as amended.

- (g) Concurrently with the delivery of each Vessel to the Operator, the Operator will deliver such Vessel to an affiliate of BOT designated by BOT and incorporated under the laws of a state in the United States (the "Time Charterer") for service under a previously executed and Maritime Administration approved time charter, having the same basic term and extension options as the Bareboat Charter covering such Vessel as well as certain bareboat charter features relating to hire (the applicable "Time Charter"). The obligations of the Time Charterer under each Time Charter, including the obligation to pay charter hire irrespective of any unavailability or absence of purpose for service thereunder of the Vessel covered thereby, will be unconditionally guaranteed by Burmah.

- (h) The Affiliate and the Time Charterer intend to enter into a vessel management contract (the "Vessel Management Contract"), the form

of which will be annexed hereto by amendment as Exhibit K. The Vessel Management Contract will, among other things, provide for the Time Charterer to enter into the time charters in respect of the Vessels and the management of the Vessels for the benefit and account of the Affiliate. In exchange, the Affiliate will agree to pay to the Time Charterer all charter hire, other expenses incurred in connection therewith and any other amounts payable by the Time Charterer pursuant to the Time Charter plus an agreed-upon percentage of the Affiliate's "Transportation Profit" (being the Affiliate's net profit derived from the Affiliate's transporting LNG pursuant to the Transportation Agreement).

It is believed that this Title XI application and the Title XI applications of the Other Applicants should be granted for the following principal reasons:

- (1) Construction and operation of the Vessels will assist in the development and maintenance of a new shipping capability for United States flag vessels and consequently increase United

States employment.

- (2) Construction of the Vessels in the United States and repayment of financed construction costs from earnings from a foreign shipper under the Transportation Agreement will have a direct favorable effect on the United States balance of payments.
- (3) Construction of the Vessels in the United States will lead to the further development of a domestic ship construction technology which, to date, has been almost entirely developed by foreign shipyards.
- (4) While the contemplated use of the Vessels is in foreign commerce from Indonesia to Japan, construction of the Vessels in the United States and their registration under United States flag will make additional LNG shipping capacity available under United States law to the United States.

PART I - SUMMARY INFORMATION

Name of Applicant Borrower

Cherokee II Shipping Corp.

Street Address

c/o The Corporation Trust Company
100 West Tenth Street

City and State

Wilmington, Delaware

Name of Proposed Lenders

To be designated

Street Address

To be designated

City and State

To be designated

Nature of Application

Loan Guarantees

The Proposed Loans:

(a) Types of Loans - Long-Term Loans and Interim
Construction Loans

(b) Kinds of Obligations to Evidence the Loans
- Title XI Bonds and Loan Certificates -
The Loan Certificates (evidencing the construction loans) will be privately placed through the lending agency to be identified in Schedule I hereto, to be added by amend-

ment. The Title XI Bonds will be sold privately or publicly as market conditions at the time of their issuance then warrant.

- (c) Purpose - Pursuant to Section 1104(a) of the Act, the Title XI Guaranteed Loans will be used to aid in the financing of part of the construction cost of the Vessel and the proceeds of the sale of the Title XI Bonds will be used to repay the Title XI Guaranteed Loans upon delivery of the Vessel to its Owner.
- (d) Amount of Loans - Approximately \$75,750,000 which is 75% of the estimated "actual cost" of the Vessel.
- (e) Periods of Loans - As stated in the Introduction hereof, since it is proposed that the Burmah Guaranteed Loans be made before any Title XI Guaranteed Loans are made, it is estimated that takedowns of the Title XI Guaranteed Loans will commence during July of 1975 and become payable upon the delivery of the Vessel. The Title XI Bonds will have a maturity of approximately either 20 or 25 years from the delivery of the

Vessel.

- (f) Interest Rates - The rate of interest in respect of the Title XI Guaranteed Loans will be a fixed rate specified in an amendment hereto and will be the best rate then available for short-term loans and supported by Exhibit C hereto which will be concurrently filed with such amendment. The rate of interest in respect of the Title XI Bonds will be the best obtainable rate for long-term government guaranteed debt obligations at the time of their issuance.
- (g) Amortization Schedule - The Title XI Guaranteed Loans are payable upon the delivery of the Vessel. It is anticipated that the Title XI Bonds will be repaid in either 40 or 50 semiannual installments in arrears under a level debt payment program (including principal and interest) which will be more fully described in Exhibit I hereto, to be annexed hereto by an amendment at the earliest date practicable. A pro-forma schedule of the Title XI Bond amortization will

be annexed to an amendment hereto as Exhibit F to this Application immediately after the fixing of the applicable interest rate.

- (h) Type of Vessel - The Vessel will have a 125,000 cubic meter LNG capacity and will embody the Moss-Rosenberg system of LNG containment at - 260°F in pressurized spheres. The Vessel will have an overall length of 936'2", a beam of 143'10", an operating draft of 36'0", a full load displacement of 94,600 tons, weigh 63,600 deadweight tons and have a service speed of approximately 19 knots.

PART II - APPLICATION

The undersigned Applicant hereby applies to the United States of America, represented by the Secretary of Commerce, acting by and through the Maritime Administrator (herein referred to as the "Secretary"), under the Act and Regulations for the guarantee by the Secretary of:

- (a) the interest on and the unpaid balance of the principal of Title XI Bonds in the approximate original principal amount of \$75,750,000, the specific amount to be sup-

plied by amendment hereto) to be issued by
the Owner,

and

- (b) the interest on and the unpaid balance of
principal of a loan in the approximate orig-
inal principal amount of \$75,750,000 (the
specific amount to be furnished by amend-
ment hereto) to be made to the Owner by the
Construction Lenders,

for the purposes and upon the terms and conditions herein
set forth, including the annexed Schedules and Exhibits,
and subject to all the provisions of the Act and the Regu-
lations. In support of this application, the Applicant
submits the following information, in addition to that stated
in Part I hereof:

I. As to the Applicant: Its Identity

A. Not Applicable.

B. Not Applicable.

C. Incorporated Companies

1. Exact Name of Applicant

Cherokee II Shipping Corp.

2. State in which Incorporated and Date of Incorporation

Delaware - August 3, 1973

3. Address of Principal Executive Offices and Important Branch Offices, if any:

c/o The Corporation Trust Company
100 West Tenth Street
Wilmington, Delaware

4. The following information with respect to each officer and director of the corporation:

<u>Name and Address</u>	<u>Office</u>	<u>Nationality</u>	<u>Shares Owned</u>
John C. Bullitt R.D. #1 Princeton, N.J.	President/ Director	U.S.A.	500 (100%)
Alan R. Vogeler, Jr. 315 East 70th Street New York, New York	Secretary/ Director	U.S.A.	0
Richard A. Kalaher 39 Rose Terrace Chatham Township, N.J.	Treasurer/ Director	U.S.A.	0

II. As to the Applicant: Its Business and Affiliations

A. Principal Business Activities

The Applicant was organized on August 3, 1973 for the following purposes:

- (1) To enter into the Construction Contract and negotiate for and implement the

construction and long-term financing arrangements as to the Vessel;

- (2) To make applications (including this application) to the appropriate governmental agencies with respect to the construction, chartering and financing of the Vessel;
- (3) To do such other acts and things as may be necessary or advisable to accomplish the foregoing.

B. Related Companies

As stated in the Introduction, the Other Applicants are affiliates of the Applicant, each being under the common control of Mr. Bullitt, its sole stockholder, who is also the sole stockholder of the Applicant. The purposes for which each of the Other Applicants was organized and the date of its organization are the same as the Applicant's, but, in each case, with respect to such Other Applicant's Vessel. As stated in the Introduction, as promptly as practicable the Applicant proposes to assign

and transfer all of the capital stock of the Applicant to the applicable Owner or take other action so that all of its rights and obligations hereunder shall be held by the related Owner.

- C. None of the Applicants has ever been in bankruptcy or in reorganization under Section 77-B of the Bankruptcy Act or in any other insolvency or reorganization proceedings. Information in this regard with respect to the Operator will be supplied by amendment.
- D. None of the Applicants has ever been in default under any agreement or undertaking with others or with the United States or guaranteed or insured by the United States. Information in this regard with respect to the Operator will be supplied by amendment.

III. As to the Management of the Applicant

- A. A brief description of the principal business activities during the past 5 years of each director and each principal executive officer of the Applicant:

John C. Bullitt - President and Direc-

tor. Mr. Bullitt is and since August 18, 1969 has been a partner in Shearman & Sterling, a law firm having its principal office at 53 Wall Street, New York, New York. Previously, he served as Assistant Administrator for East Asia with the Agency for International Development.

Alan R. Vogeler, Jr. - Secretary and Director. Mr. Vogeler is and for the past five years has been associated with Shearman & Sterling, a law firm having its principal office at 53 Wall Street, New York, New York.

Richard A. Kalaher - Treasurer and Director. Mr. Kalaher is and for the past five years has been associated with Shearman & Sterling, a law firm having its principal office at 53 Wall Street, New York, New York.

- B. As noted in the Introduction hereto, each of the Other Applicants is under the common

control of Mr. Bullitt, the sole stockholder of the Applicant, and the officers and directors of each thereof are the same as those of the Applicant.

- C. There are no affiliations or relationships between the Applicant and any of its directors or principal executive officers, on the one hand, and, on the other hand, the Builder and any of its directors and principal executive officers.
- D. Name, citizenship, education, background of, and licenses held by all shore management personnel concerned with the physical operation of the Vessel.

As stated in the Introduction hereto, it is contemplated that the Vessel will be chartered to the Operator under the Bareboat Charter which will in turn charter the Vessel to the Time Charterer. Accordingly, the Owner will not engage any shore management personnel for operation of the Vessel. However, such shore management personnel will be engaged by the Operator. Information in respect of the shore management personnel

of the Operator and in respect of union affiliations, collective bargaining agreements with the Operator and companies for whom the Operator acts as agent will be annexed hereto by amendment as Exhibit J to this Application as soon as practicable.

IV. As to the Applicant: Its Property and Activities

- A. A brief description of the general character and location of the principal properties of the Applicant employed in its business other than vessels.

The Applicant owns no tangible property.

- B. A statement with respect to each vessel owned by the Applicant, or operated by it under charter.

The Applicant does not presently own or operate under charter any vessels.

- C. Not Applicable.

- D. Not Applicable.

V. The Project

- A. The purpose for which the proposed Title XI Guaranteed Loans will be expended with

reference to Section 1104(a)(1) of the Act is to finance up to 75% of the "actual cost" of the Vessel during the period of its construction. The purpose for which the proceeds of the proposed Title XI Bonds will be expended with reference to Section 1104(a)(1) of the Act is to repay the Title XI Guaranteed Loans.

- B. (1) The total estimated capitalizable cost of the construction of the Vessel as proposed is approximately \$107,350,000 of which \$94,000,000 is the estimated shipyard contract price, with the balance consisting of estimated interest, commitment fees and other costs payable during construction of the Vessel, including the Maritime Administration investigation fee, legal fees, investment underwriting cost, printing expenses, accounting fees, overhead and construction supervision costs and other miscellaneous fees and costs. A breakdown of the foregoing is shown in Exhibit B hereto. There are no shore

facilities, cargo containers, or other capital expenditures planned by the Applicant in conjunction with the project. As stated in the Introduction hereto, that portion of the cost during the construction of the Vessel which will not be financed by the Title XI Guaranteed Loans will be financed under the Burmah Guaranteed Loans, and, after delivery, that portion of the aggregate amount of principal and interest payable under the Title XI Guaranteed Loans and Burmah Guaranteed Loans which will not be refinanced by the net proceeds of the Title XI Bonds will be contributed to the Owner by the Equity Investors as equity (which may be represented by debt obligations issued by the Owner to the Equity Investors, which debt obligations will be unsecured and fully subordinated to the Title XI Bonds) and applied to such refinancing.

The Applicant contemplates that the Construction Lenders will make all of

the Title XI Guaranteed Loans and Burmah Guaranteed Loans. Substantially definitive and final forms of loan agreements providing for the Title XI Guaranteed Loans and the Burmah Guaranteed Loans will be annexed hereto as Exhibits C-2 and C-3, respectively, to Schedule I.

The Equity Investors will contribute to the Owner upon delivery to it of the Vessel at least that portion of principal and interest payable under the Title XI Guaranteed Loans and Burmah Guaranteed Loans which will not be refinanced by the proceeds of the Title XI Bonds.

It is contemplated that, subject to the granting of this application, the Owner will issue and sell, by either public or private sale, the Title XI Bonds through underwriters of recognized standing to be designated by an amendment hereto.

- (2) A table of estimated vessel character-

istics is listed in Schedule II hereto. The supervising architect will be determined at a later date and information as to such person will be added hereto by amendment at a later date.

Schedule III hereto has been omitted and in lieu thereof reference is made to Marad design LG8-S-102(a) and the preliminary design specifications relating to Marad Hulls Nos. 177, 180 and 183.

- C. Not Applicable.
- D. A comparison of the characteristics of the Vessel will indicate the Vessel's conformity with the requirements of Sections 1(a) and 4 of the letter of intent annexed hereto as Confidential Exhibit G.
- E. Description of proposed operations
 - (1) - (5) See Exhibit D hereto.
 - (6) See subparagraphs (f) and (g) of the Introduction hereof and Exhibit E hereto for the citizenship affidavit in respect of the Applicant.

(7) Not Applicable.

(8) Not Applicable.

F. Forecast of operations

(1) - (5) See Exhibit D hereto.

G. Construction Contract

Negotiations have been conducted with the Builder for the construction at the Builder's Quincy, Massachusetts, shipyard of the Vessels, as confirmed in the Letter of Intent. The Applicant believes that a negotiated contract with the Builder will result in the lowest cost and earliest delivery of the Vessel and is prepared upon request to furnish evidence in support of such belief to the Maritime Administration.

H. New Service

As stated in the Introduction and Exhibit D hereto, the Operator proposes to utilize the Vessels in a new liquefied natural gas transport service between (a) East Kalimantan and/or North Sumatra, Indonesia, as the loading ports, and (b) Osaka, Nagoya and Tokyo Bay, Japan, as the discharge ports.

I. Not Applicable.

J. Not Applicable.

K. Not Applicable.

VI. Fees and Charges

Fees and charges to be capitalized in connection with construction of the Vessel are presently estimated to be as follows:

- | | |
|--|-----------|
| (1) Maritime Administration investigation fees incurred in connection with this application | \$ 70,000 |
| (2) Fees payable to underwriters in connection with the public or private placement of the Title XI Bonds (calculated at an estimated 3/4 of 1% of the amount thereof, subject to adjustment in light of prevailing market conditions, including underwriters' fees) | \$568,000 |
| (3) Printing costs | \$100,000 |
| (4) Fees for counsel to the Applicant, the Lending Agency referred to in Schedule I hereto, the Equity Investors and the underwriters referred to in (2) above | \$250,000 |
| (5) Accounting fees | \$ 87,000 |

VII. As to Schedules and Exhibits

A. List of Schedules and Exhibits

(It is requested that confidential treatment be accorded to Schedule I and Exhibits B, D, G, H, I, J and K hereto.)

Schedule I. The lender's statement in support of this application. (The statement in support of this application in respect of the Title XI Bonds, and the Exhibits thereto, will be furnished later.)

Schedule II. Table of characteristics.

Schedule III. Preliminary design information. Omitted. Reference is made in lieu thereof to Marad design LG8-S-102(a) and the preliminary design specifications relating to Marad Hulls Nos. 177, 180 and 183.

Exhibit A-1. Copy of the Certificate of Incorporation of the Applicant.

Exhibit A-2. Copy of the By-Laws, as amended, of the Applicant.

Exhibit B. (1) Detailed supports to item
B(1) of Section V.

(a) Reconciliation of
the total, estimated
capitalizable costs
of construction of
the Vessel to the
Applicant during the
construction period.

(2) Balance sheets and profit
and loss statements.

(3) Pro-forma balance sheet
of the Owner as of the
date of assumption of in-
surance liability by the
Government.

(4) Pro-forma profit and loss
projection of the Owner
for at least five years
of operation.

(5) Pro-forma schedules of
depreciation on the Ves-
sel on:

(a) book basis, and

(b) tax basis.

(To be submitted later.)

(6) Pro-forma schedule of debt amortization (other than for guaranteed loans).

(Not applicable since no other debt will be incurred.)

Exhibit C. Justification for rate of interest for Title XI Guaranteed Loans and for Title XI Bonds and support as best rates obtainable. (To be furnished at the respective times such rates are established.)

Exhibit D. Forecast of Operations.

Exhibit E. Affidavit of citizenship of Applicants.

Exhibit F. Amortization schedule of Title XI Bonds repayment of principal and interest. (To be furnished.)

Exhibit G. Letter from BOT to Pertamina indicating its willingness in principle to enter into a con-

tract for the transportation
of LNG from Indonesia to Japan.

Exhibit H. Letter from the Builder to BOT
confirming the Builder's intention to execute vessel construction contracts for construction of the Vessels subject to the conditions therein stated.

Exhibit I. Commitment of the Equity Investors to contribute to the Owner upon delivery by the Builder to it of the Vessel at least that portion of principal and interest payable under the Title XI Guaranteed Loans and Burmah Guaranteed Loans which will not be refinanced by the proceeds of the Title XI Bonds.
(To be furnished.)

Exhibit J. Information as to Operator's shore management personnel, union affiliations, collective bargaining agreements and com-

panies for whom the Operator
acts as agent. (To be furnished.)

Exhibit K. Form of the Vessel Management
Contract. (To be furnished.)

Dated: August 8, 1973

CHEROKEE II SHIPPING CORP.

By John C. Bullitt
John C. Bullitt, President

Attest:

Alan R. Vogeler, Jr.
Alan R. Vogeler, Jr., Secretary

I, John C. Bullitt, do certify that I am the President of Cherokee II Shipping Corp., the Applicant on whose behalf I have executed the foregoing application; that the Applicant is a citizen of the United States within the meaning of Section 2, Shipping Act, 1916, as amended (U.S.C., Title 46, Sec. 802), Sections 37 and 38, Merchant Marine Act, 1920, as amended (U.S.C., Title 46, Sec. 888), and Section 905(c), Merchant Marine Act, 1936, as amended (U.S.C., Title 46, Sec. 1244); that this application is made for the purpose of inducing the United States of America to issue its guarantee pursuant to the provisions of Title XI of the Merchant Marine Act, 1936, as amended, and (except as otherwise required or approved by the Secretary), the rules and regulations prescribed to carry out the provisions of such Title; that I have carefully examined the application and all documents submitted in connection therewith and, to the best of my knowledge, information and belief, the statements and representations contained in said application and related documents are full, complete, accurate, and true.

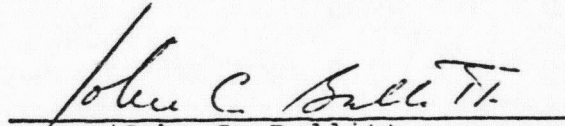

John C. Bullitt

EXHIBIT 10 TO NEMIROW AFFIDAVIT - LETTER FROM MAR AD TO
CHEROKEE I THROUGH CHEROKEE IV DATED NOVEMBER 7, 1973

RF

5:1

Ex 10
Ex. 10

November 7, 1973

Cherokee I Shipping Corp.
Cherokee II Shipping Corp.
Cherokee III Shipping Corp.
Cherokee IV Shipping Corp.
100 West Tenth Street
Wilmington, Delaware 19899

Gentlemen:

With respect to the applications dated August 8, 1973, as amended, of Cherokee I Shipping Corp./Cherokee II Shipping Corp./Cherokee III Shipping Corp./and Cherokee IV Shipping Corp. (Cherokee Companies) to be assigned to four trusts to be established by certain institutional investors (Equity Participants) each of which will be administered by a trust institution as owner trustee (Shipowner) for a guarantee of obligations (including the construction period) under Title XI of the Merchant Marine Act, 1936, as amended (Act), to aid in financing the construction of four (one for each Cherokee Company) 125,000 cubic meter liquefied natural gas tankers (Vessels) to be bareboat chartered by the Shipowner to Energy I, Inc./Energy II, Inc./Energy III, Inc./and Energy IV, Inc. (Energy Bareboat Charterers) for a period of 25 years from date of delivery of each Vessel, you are advised that on this date the Assistant Secretary for Maritime Affairs (Secretary) took the following actions:

I. Approved Energy Bareboat Charterers pursuant to Section 11.4(b)(1) of the Act and subject to compliance with the requirements herein stated, including without limitation Recommendation VII herein, as possessing the ability, experience and other qualifications necessary to the adequate operation and maintenance of the Vessels which serve as security for the guarantee of obligations.

II. Approved the proposed sale and lease financing arrangements, whereby the Cherokee Companies will assign all their rights and obligations under the applications and the Construction Contracts with General Dynamics Corporation (Shipbuilder) dated October 5, 1973 (Construction Contracts) to the Shipowner. The Shipowner will assume the above rights and obligations not in its individual capacity but solely as owner trustee under a trust agreement (Trust Agreement) with the Equity Participants.

BEST COPY AVAILABLE

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III. Required with respect to each Vessel that (1) the Shipowner and Equity Participants, when selected, possess the ability, experience, financial resources and other qualifications necessary pursuant to Section 1104(b)(1) of the Act and (2) the Shipowner enter into a 25 year bareboat charter (Bareboat Charter) with the respective Energy Bareboat Charterers.

IV. Approved the design of the Vessels and found that under the provisions of Section 1104(b)(2) of the Act, the Vessels, if constructed substantially in accordance with the Maritime Administration's approved plans and specifications are eligible for a guarantee of obligations which amount does not exceed 87½% of the actual cost of construction.

V. Determined that pursuant to Sections 1101(f) and 1104(b)(2) of the Act, that actual cost of construction of the Vessels, subject to adjustments as determined by the Chief, Office of Subsidy Administration, for the purposes of the proposed Commitment to Guarantee Obligations, to be as follows:

	1st 3 Vessels Each	4th Vessel	Total
Contract Price	\$ 94,000,000	\$ 98,000,000	\$380,000,000
Changes & Extras	765,000	765,000	1,060,000
Engineering & Inspecting	335,000	335,000	1,340,000
Interest & Commitment Fees	<u>5,900,000</u>	<u>5,900,000</u>	<u>23,600,000</u>
Total Actual Cost	\$101,000,000	\$105,000,000	\$408,000,000

On this basis fixed the maximum amount of the proposed guarantee of obligations commitment at \$88,375,000 each for the first three Vessels and \$91,875,000 for the fourth Vessel for a total of \$357,000,000 for four Vessels, which amount does not exceed 87½% of the aforesaid actual cost.

VI. Excluded from actual cost any foreign items installed on the Vessels, if suitable domestic components, as determined by the Maritime Administration, are available.

VII. Waived: the performance bond requirement of Section 298.8(c)(1) of General Order 29, Revised in the Construction Contracts between the Cherokee Companies and the Shipbuilder and the requirement for competitive bidding found in Section 298.4(1) of General Order 29, Revised.

3

VIII. Prior to the execution of a formal commitment to guarantee obligations with full documentation, required Energy Bareboat Charterers to submit a plan satisfactory to the Secretary setting forth in detail its proposal as to how it will develop its organization to permit the Secretary to make a finding that it will have the operating ability, experience and other qualifications necessary to the adequate operation and maintenance of the property.

IX. Found under Section 1104(d) of the Act that the property or project, with respect to which the guaranteed obligations will be issued is in his opinion economically sound, subject to the execution of the Bareboat Charters, the Time Charters (Time Charters) between Energy Bareboat Charterers and Burmah Oil Shipping Inc., a Delaware corporation (BOSI), and a guarantee by Burmah Oil Company Limited, a United Kingdom corporation (Burmah) guaranteeing the performance of BOSI under the Time Charters (Burmah Guarantee).

2. Required the Bareboat Charters be executed in "hell and highwater" form to provide for, among other things, (1) the payment of charter hire pursuant to the terms of the Bareboat Charters on an absolute "hell and highwater" basis; (2) subordination of the Bareboat Charters to the Mortgages in form satisfactory to the Secretary; (3) Energy Bareboat Charterers' liability under the Bareboat Charters regardless of default under the Time Charters; (4) no offhire period regardless of cause; (5) triggering of the Burmah Guarantee by the Secretary in addition to Energy Bareboat Charterers, (6) Default clause that failure to perform or observe any material covenant or condition, etc. will constitute a Default under the charter and (7) that the Shipowner may not call a default under the Bareboat Charter without the consent of the Secretary. This means that bareboat charter hire is due and payable under any and all circumstances whatsoever, for the full term of the Bareboat Charters and said charters cannot be terminated prior to the agreed upon termination date of 25 years after Vessel delivery - provided, however, said charter hire and charters can terminate prior to their expiration date upon the payment of any insurance (other than performance under the Title XI guarantee) or other compensation which would satisfy all outstanding Title XI guaranteed indebtedness on the Vessels. Said Bareboat Charters are to be satisfactory in all respects to the Secretary.

XI. Required the Time Charters be executed in "hell and highwater" form to provide for the payment of charter hire pursuant to the terms of the Time Charters on an absolute "hell and highwater" basis with no offhire for any cause. This means that time charter hire is due and payable under any and all circumstances whatsoever, for the full term of the Time Charters and said charters cannot be terminated prior to the agreed upon termination date of 25 years after Vessel delivery - provided however, said charter hire and charters can terminate prior to their expiration upon payment of any insurance (other than performance under the Title XI guarantee) or other compensation which would satisfy all outstanding Title XI guaranteed indebtedness on the Vessels. Said Time Charters are to be satisfactory in all respects to the Secretary.

XII. Required that the Burmah Guarantee be executed with respect to the Time Charters to provide that Burmah Oil Company Limited (Burmah) will unconditionally guarantee the performance of BOSI in accordance with the terms of said Time Charters. The Burmah Guarantee shall be executed in form and substance satisfactory to the Maritime Administration.

XIII. Required an agreement between Burmah and BOSI that at the end of the accounting year, after the determination of profit (which term shall mean the difference between the gross freights paid under the Transportation Agreement attributable to the Vessels less all expenses paid by BOSI including BOSI's allocable overhead, administrative costs, charter hire, and other operating costs), from the operation of the Vessels, BOSI will retain 25% of said profits before taxes and disburse the balance to Burmah.

XIV. Required for the purposes of the initial Title XI closings and the vessel delivery guarantee closings that the respective Shipowners have funds committed or available representing owner's equity in an amount not less than the difference between the Title XI guaranteed obligations and the capitalizable cost of the Vessels.

XV. Required that any payments with respect to basic charter hire to pay principal, interest and guarantee fees with respect to the Title XI guaranteed obligations made pursuant to the Transportation Agreement dated September 23, 1973, the Time Charters or the Burmah Guarantee be paid to a Trustee satisfactory to the Maritime Administration.

5

XVI. Determined for the purpose of the vessel delivery guarantee closings that the qualifying working capital requirements will be in accordance with General Order 29, Revised, or such other amounts as may be determined by the Chief, Office of Subsidy Administration.

XVII. Waived the requirements for a reserve fund and covenants regarding working capital and net worth as set forth in Section 298.8(j) and (k) of General Order 29, Revised so long as the Burmah Guarantee is in full force and effect.

XVIII. Approved, pursuant to Sections 9 and 37 of the Shipping Act, 1916, the proposed time chartering of the Vessels for a period of 25 years by Energy Bareboat Charterers to BOSI, a Delaware corporation not possessing citizenship qualifications required by Section 2 of the Shipping Act, 1916, as amended.

XIX. Fixed the Cherokee Companies' investigation fee, authorized by Section 1104(f) of the Act, at \$494,037.50 (less the previously paid \$400 filing fee) which amount is to be paid forthwith.

XX. Fixed a pre-delivery guarantee fee rate at $\frac{3}{8}$ of 1% per annum for the Vessels. In addition, fixed the post-delivery guarantee fee rate at $\frac{1}{2}$ of 1% per annum so long as the Bareboat Charters, Time Charters and the Burmah Guarantee are in full force and effect. In the event any of these agreements is not in full force and effect, the Secretary may in his sole discretion, give written notice that the guarantee rate shall be in accordance with the Criteria approved by the Maritime Administrator on March 18, 1970 and amended by the Assistant Secretary of Commerce for Maritime Affairs on January 18, 1971.

XXI. Required the Cherokee Companies, Shipowners, Equity Participants and Energy Bareboat Charterers to furnish satisfactory evidence of United States citizenship at least 60 days prior to the Commitment Closing and evidence of continuing United States citizenship at each closing thereafter.

XXII. Waived the provision of Section 298.8(c)(5) of General Order 29, Revised requiring the vesting of title during the construction period in the borrower (Cherokee Companies) to provide for title to be held by General Dynamics Corporation, subject to the Cherokee Companies obtaining a security interest in the Vessels or component parts under the U.C.C.

XXIII. Authorized the Chief, Office of Subsidy Administration to approve the execution of all appropriate documents, to be submitted at least 60 days prior to the applicable closing, and to take such other actions as may be necessary to effectuate the purposes of this recommendation.

XXIV. Required the Cherokee Companies, Energy Bareboat Charterers, BOSI, Burmah, the Shipowner, and the Equity Participants to meet all the requirements of the applicable statutes and regulations in accordance with General Order 29, Revised, or as determined by the Chief, Office of Subsidy Administration.

XIV. Required that the Letter Commitment to guarantee be conditional upon receipt of satisfactory evidence that the project has received the prior approval of the Indonesian Government Council of Commissioners in accordance with the provisions of Indonesian Law # 8, effective January 1, 1972, Article 27. In addition, required a legal opinion from an expert in Indonesian law satisfactory to the Maritime Administration that the provisions of Indonesian Law # 8 and any other applicable statute or regulation have been complied with.

XXVI. Required that evidence satisfactory to the Maritime Administration be submitted that the requirements of Article 22.2(a)(6) of the Transportation Agreement dated September 23, 1973 (Transportation Agreement) with respect to the approval of the Board of Directors of Burmah, Burmast East Shipping Corp. (Burmast) and Perusahaan Pertamina Minjab Dan Gas Bumi Negara (Pertamina) have been met.

XXVII. Required that Burmah submit evidence satisfactory to the Maritime Administration that prior Bank of England approval has been obtained with respect to the Burmah Guarantee without condition or upon the prefaction of the guarantee of the Bank of England in accordance with the terms and conditions set forth in its letter of November 7, 1973 under the signature of H. P. Ockenden.

XXVIII. Required that all rights and obligations under the Transportation Agreement with respect to the four Vessels be assigned by Burmast to BOSI. Payments made pursuant to the Transportation Agreement shall be made in accordance with the provisions of Recommendation XIV.

XXIX. Required that satisfactory evidence of vessel insurance is submitted to the Maritime Administration at least 10 days prior to each guarantee closing.

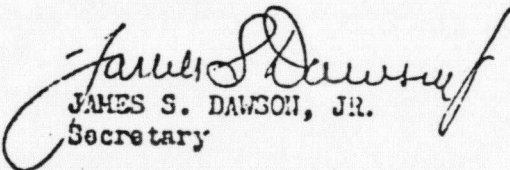
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XXX. Required that prior to the issuance of any Title XI guaranteed obligations a ruling satisfactory to the Maritime Administration be obtained from the United States Internal Revenue Service with respect to the lease financing.

XXXI. Required that the Vessels pass sea trials satisfactory to the Secretary prior to the delivery from the Shipbuilder to Shipowner and that the Shipbuilder's guarantee period extend for not less than 12 months after satisfactory completion of the first full gas trials, wherever they may be, which must be performed in accordance with all applicable requirements of the appropriate regulatory bodies.

XXXII. Authorized the execution of this letter to the Cherokee Companies, which will constitute a Letter Commitment to Guarantee Obligations, subject to conditions set forth herein and subject to the Cherokee Companies, the Shipowner, the Energy Bareboat Charterers, BOSI, Burmah, and the Equity Participants later meeting all other requirements of the applicable statutes and regulations. In addition, advise all parties concerned that although the Transportation Agreement calls for Burmah to provide seven Vessels to be dedicated to this project, this Letter Commitment to guarantee is for four Vessels only. There should be no inference with respect to this Letter Commitment to guarantee that the Maritime Administration is giving indirect or tacit approval to a future application for Title XI or other government aid with respect to Vessels five, six and seven under the Transportation Agreement. No such approval of future applications or additional Vessels is intended or implied.

Sincerely,


JAMES S. DAWSON, JR.
Secretary

ACCEPTED:

(Applicant)

Burmah Oil, Company, Ltd.

Date: _____

Date: _____

General Dynamics, Corporation

Date: _____

cc: 520 521 120

EFitzgerald/slb 11-8-73

EXHIBIT 11 TO NEMIROW AFFIDAVIT - AMENDMENT TO APPLICATIONS OF CHEROKEE I THROUGH CHEROKEE V, JOINED BY GENERAL DYNAMICS CORPORATION, DATED AUGUST 27, 1976

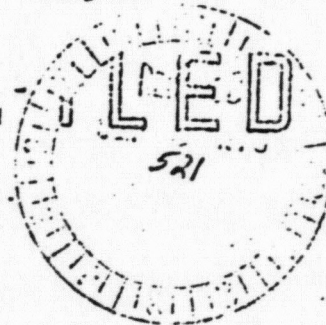
RECEIVED

75 AUG 27 12:39

SECRETARY, MARITIME ADMINISTRATION

August 27, 1976

Secretary
Maritime Administration
Department of Commerce
Washington, D. C. 20235



Dear Sirs:

Reference is made to the applications dated August 8, 1973, as superseded in their entirety by amended applications dated October 11, 1973, of Cherokee I Shipping Corp., Cherokee II Shipping Corp., Cherokee III Shipping Corp. and Cherokee IV Shipping Corp. and the application dated February 12, 1974 of Cherokee V Shipping Corp. (the "Applications") and to your letters of November 7, 1973 (as revised by your letter of March 21, 1974) and May 21, 1974 (the "Commitment Letters"), wherein you, on behalf of the United States of America, agreed, subject to certain conditions, to guarantee obligations under Title XI ("Title XI") of the Merchant Marine Act, 1936, as amended (the "Act"), to aid in financing the construction by General Dynamics Corporation ("GD") of a total of five 125,000 cubic meter liquefied natural gas tanker vessels (the "Vessels"). As indicated in the Applications, said Cherokee corporations are parties to Construction Contracts with GD for the construction, at GD's Quincy, Massachusetts shipyard, of the Vessels.

Please be advised that as a result of further discussions involving GD, the undersigned and The Burmah Oil Company Limited ("Burmah"), several modifications to the transaction set forth in the Applications have been arranged. The purpose of this letter is to set forth such modifications and to request confirmation by you of your commitment contained in the Commitment Letters.

The Vessels are being constructed by GD under separate construction contracts. The Vessels are intended to be used for the transportation of liquefied natural gas ("LNG") from Indonesia to certain Japanese end users pursuant to a Transportation Agreement dated September 23, 1973 (the "Transportation Agreement") between Perusahaan Pertambangan Minyak Dan Gas Bumi Negara, an Indonesian corporation ("Pertamina"), and Burmah Gas Transport Limited, a Liberian corporation and wholly-owned subsidiary of Burmah ("BGT"), as successor by assignment from Burmast East Shipping Corporation. BGT is a special purpose corporation formed solely for the purpose of holding and performing the Transportation Agreement. The obligations of BGT under the Transportation Agreement will be performed by five separate wholly-owned Delaware subsidiaries (individually, a "Time Charterer", and collectively, the "Time Charterers") of

Burmah Oil Shipping Inc., a Delaware corporation and a subsidiary of Burmah, as time charterers of the Vessels under Vessel Management Contracts (the "Vessel Management Contracts") to be entered into by the various Time Charterers and BGT on the date of the execution of the Guarantee Commitments (the "Execution Date").

GD is incorporating five wholly-owned Delaware subsidiaries (individually, an "Owner", and collectively, the "Owners"), which, subject to the fulfillment of certain closing conditions, will purchase the assets of the Cherokee corporations and, as a result, become the owners of the Vessels. We have been informed by GD that it is, and each Owner will be, a United States citizen within the meaning of Section 2 of the Shipping Act, 1916, as amended. On the Execution Date, the Owners will purchase the assets of each of the Cherokee corporations for \$500 each and for the assumption of specified liabilities, including the then outstanding notes of the Cherokee corporations entered into in connection with financing progress payments under the Construction Contracts and other capitalized costs of the Vessels. As a result, the "Owners" referred to in the Applications and the "Shipowners" referred to in the Commitment Letters will not be trusts to be established by institutional investors but will be the subsidiaries of GD referred to above as the Owners.

Each Owner will finance the capitalized costs of the Vessel to be owned by it pursuant to the following arrangements:

(a) In order to finance the portion of the capitalized costs of such Vessel up to 87-1/2% of its "Actual Cost," as defined in the Regulations issued under the Act, each Owner will enter into underwriting agreements with a group of underwriters pursuant to which such Owner will sell to such underwriters from time to time (but not more frequently than quarterly) for resale obligations which are to be guaranteed pursuant to Title XI of the Act. These obligations will be issued under a trust indenture (the "Indenture") between the Owner and an indenture trustee. To give each Owner the maximum flexibility for financing such Vessel, the Indenture will provide for the issuance of short-term obligations (the "Notes"), serial bonds (the "Serial Bonds") and sinking fund bonds (the "Sinking Fund Bonds"). The Notes will have maturities of up to two years and will represent short-term construction financing. The Serial Bonds and Sinking Fund Bonds, to be amortized over a

period of twenty-five years from the delivery date of the Vessel, will represent permanent financing for the Vessel and may be issued prior to the delivery date of the Vessel if market conditions warrant. Outstanding Notes which mature prior to the delivery date of the Vessel will be refinanced, depending on existing market conditions, through the issuance of Notes, Serial Bonds or Sinking Fund Bonds. To the extent that there are Notes outstanding on the delivery date of the Vessel, Serial Bonds and/or Sinking Fund Bonds will be issued to refinance such Notes. At no time, however, will the aggregate principal amount of the Notes, the Serial Bonds and the Sinking Fund Bonds outstanding exceed 87-1/2% of the "Actual Cost" of such Vessel. The total Actual Cost of the Vessels is currently estimated to range between \$112,000,000 and \$125,000,000 each.

(b) GD will provide to the Owners the equity portion of the funds required to finance the capitalized costs of the Vessels, i.e., the funds in excess of those provided from issuance of the obligations guaranteed pursuant to Title XI

of the Act. Equity funds will generally come from various cash flow sources available to GD.

\$10,000,000 of the notes of each Cherokee corporation which are unsecured and payable to Burmah and which are to be assumed by an Owner will remain unpaid until the delivery date of the related Vessel.

To date Burmah has made loans to the Cherokee corporations to enable them to pay capitalized costs of the Vessels, including progress payments to GD under the respective Construction Contracts for the Vessels. It is anticipated that, except as noted above, the loans with respect to each Vessel will be repaid out of or in anticipation of the first sale of Title XI obligations.

Upon the delivery of each Vessel it will be documented under the laws and flag of the United States in the name of the applicable Owner and subjected to the lien of a first preferred ship mortgage in favor of the United States as security for the guarantee under Title XI of the Act of the Notes, the Serial Bonds and/or Sinking Fund Bonds issued by such Owner on, prior to, or subsequent to said delivery date as financing for such Vessel. As previously indicated, Serial Bonds and/or Sinking Fund Bonds may be issued to

finance the construction of the Vessel or may be issued at approximately the time of delivery of the Vessel as take-out financing for the outstanding Notes issued to provide construction financing for such Vessel.

Simultaneously with the delivery of each Vessel to the applicable Owner, such Vessel will be demise chartered to a special purpose corporate subsidiary of Energy Transportation Corporation (individually a "Demise Charterer") under a previously executed demise charter (a "Demise Charter") approved by the Maritime Administration. Each Demise Charterer will be a citizen of the United States within the meaning of the Shipping Act, 1916, as amended.

Simultaneously with the delivery of each Vessel and the demise chartering thereof to the applicable Demise Charterer, it will be time chartered by the applicable Demise Charterer to the applicable Time Charterer under a time charter which will have been previously approved by the Maritime Administration (a "Time Charter"). Each Time Charter will contain the same basic terms and extension option as the Demise Charter covering such Vessel as well as certain demise charter features relating to charter hire, including "hell and high water" payment provisions. The charter hire payment obligations of the applicable Time Charterer under its Time Charter will be unconditionally

guaranteed by Burmah in an amount equal to the principal and accrued interest on the Title XI debt obligations outstanding from time to time and vessel operating expenses.

The applicable Time Charterer and BGT will enter into the Vessel Management Contract which will provide, among other things, for the applicable Time Charterer to enter into its Time Charter for the benefit and account of BGT. BGT will agree to pay to each Time Charterer all charter hire, operating expenses and any other amounts payable by such Time Charterer under its Time Charter plus its attributable portion of 25% of BGT's Transportation Agreement pre-tax profits.

Negotiations are currently underway among the parties concerning the freight rate and certain other aspects of the Transportation Agreement. To the extent that any resulting amendments to the Transportation Agreement change the economic data contained in the Applications, such revised economic data will be supplied to you.

On the basis of the foregoing, we would request that you reconfirm your Commitment Letters making appropriate modifications to reflect the information contained herein. We would specifically request that the requirement of a ruling of the United States Internal Revenue Service be eliminated since it has been agreed by the parties that

such a ruling will not be a condition to the obligations of the Owners and GD to invest in the Vessels.

Very truly yours,

CHEROKEE I SHIPPING CORP.
CHEROKEE II SHIPPING CORP.
CHEROKEE III SHIPPING CORP.
CHEROKEE IV SHIPPING CORP.
CHEROKEE V SHIPPING CORP.

By

James M. Miller
Vice President of Each

August 27, 1976

Secretary
Maritime Administration
Department of Commerce
Washington, D. C. 20235

Dear Sirs:

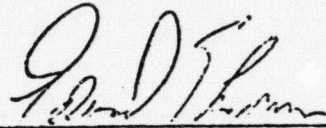
General Dynamics Corporation joins in the request contained in the letter attached hereto, dated today and addressed to you from the five Cherokee corporations. We confirm that the statements therein contained with respect to us are accurate. We further confirm and will shortly deliver to you an affidavit that we are a citizen of the United States within the meaning of the Shipping Act, 1916, as amended.

Accordingly, we would appreciate it if you would treat the attached request as being a joint application by the Cherokee corporations and General Dynamics Corporation.

Very truly yours,

GENERAL DYNAMICS CORPORATION

By



Edward E. Lynn
Vice President and General Counsel

EXHIBIT 12 TO NEMIROW AFFIDAVIT - LETTERS
FROM BURMAH TO MAR AD AND ENERGY

KURRUS AND JACOBI

ATTORNEYS AT LAW
2000 K STREET, N. W.
WASHINGTON, D. C. 20006

TELEPHONE (202) 331-9777

CABLE ADDRESS

USLAW

RICHARD W. KURRUS
JAMES N. JACOBI
THOMAS M. DYER

PHILIP F. JEHLE, COUNSEL

April 18, 1975

Hon. Robert J. Blackwell
Assistant Secretary for Maritime Affairs
U. S. Department of Commerce
Washington, D. C. 20230

Re: Ship Construction Contracts dated October 5, 1973
and December 31, 1973 between General Dynamics
Corporation and Cherokee I, II, III, IV and V
Shipping Corporations

Dear Mr. Blackwell:

Reference is made to the above-entitled construction contracts for five 125,000 cubic meter LNG vessels entered into by the respective Cherokee companies under an arrangement which contemplates the eventual time charter of the vessels to subsidiaries of the Burmah Oil Company Limited. The circumstances of this construction which involves leverage lease financing under which the charter payments are to be fully guaranteed by Burmah are set forth in the Title XI commitment letters from the Secretary of the Maritime Administration to the several Cherokee companies dated November 7, 1973 and May 21, 1974.

All of the fees, costs and expenses involved in this construction have been paid by Burmah. In this respect, Burmah

Hon. Robert J. Blackwell
Page 2
April 18, 1975

has advanced to the Cherokee companies a total of \$29,310,117.23.

The monies so advanced by Burmah have been reflected in promissory notes given by the respective Cherokee companies to Burmah Oil Inc.

Title to the vessels is held by General Dynamics Corporation and the Cherokee companies hold a security interest in the vessels or component parts.

The purpose of this letter is to request, pursuant to Sections 9 and 37(c) of the Shipping Act, 46 U.S.C. 808, 835, the approval of the Maritime Administration and the Secretary of Commerce of the assignment of all right, title and interest to the vessels under construction held by the respective Cherokee companies to a trustee approved by the Maritime Administration. This assigned interest would then secure notes issued by the Cherokee companies to Burmah in return for interim construction loans received from Burmah.

We request your approval in principle of this assignment and loan arrangement subject to our submitting promptly the appropriate documents.

Sincerely,



W. Kurrus

Attorney for the Burmah Oil company.

KURRUS AND JACOBI

Burnah Oil Co. Incorporated

1115 AVENUE OF THE AMERICAS
 2ND FLOOR
 NEW YORK, NEW YORK 10018
 (212) 877-8229 TELEX-127334



April 18, 1975

Cherokee I Shipping Corp.
 Cherokee II Shipping Corp.
 Cherokee III Shipping Corp.
 Cherokee IV Shipping Corp.
 Cherokee V Shipping Corp.
 100 West Tenth Street
 Wilmington, Delaware 19601

Gentlemen:

The purpose of this letter is to ask you to confirm the function of your companies in the construction of the 125,000 cubic meter LNU vessels for which you have contracted with General Dynamics, which vessels are to be time chartered to subsidiaries of The Burnah Oil Company Limited. As is reflected in the various documents concerning this construction, including particularly the applications filed with the Maritime Administration and in the approvals granted by that agency, this construction was undertaken solely because of the time chartering arrangements with Burnah, and it is completely dependant upon Burnah guarantees of the charter payments. The various Cherokee companies have invested no monies of their own in this project. All fees, costs and expenses attendant to this construction have been paid by Burnah. The financing of the construction, including all equity and construction funds, have been advanced by Burnah.

The basic reason for the involvement of the Cherokee companies in this matter is to permit the long-term financing of these vessels to be arranged by Burnah so that the construction may be completed and the vessels made available to Burnah under time charters. Burnah, of course, cannot under Section 2 of the Shipping Act, 1916, as amended, 46 U.S.C. 801, have a controlling interest in an American-flag vessel. It has been understood that in entering into the shipyard contracts, the Cherokee companies would transfer these contracts without compensation to the respective equity owners of the vessels as soon as the permanent financing has been arranged by Burnah under a satisfactory leverage leasing transaction. Since Burnah is to be the time charterer and ultimate user of the vessels, the terms of the financing must, of course, be satisfactory to Burnah.

BEST COPY AVAILABLE

The long-term employment of these vessels has been arranged by Burnah. In this respect, The Burnah Oil Company Limited (BOCL), acting through Burnah Oil Tankers Limited (BOTL), has created a majority-owned subsidiary Burnah East Shipping Corp. (Burnest) that has a contract with Perusahaan Pertambangan Minyak Dan Gas Bumi Negara (Pertamina), the Indonesian oil company, to carry liquefied natural gas from Indonesia to Japanese ports for a period of twenty years plus extensions. Burnest will contract with five single purpose subsidiaries of Burnah Oil Shipping, Inc. (BOSI), a U.S. subsidiary of Burnah Oil Incorporated (BOI) for the performance by such subsidiaries of Burnest's obligations.

As we have said, all of these circumstances have been set forth in considerable detail in the various documents filed with the Maritime Administration and they are reflected in the various commitment letters from that Agency. For example, the letters of November 7, 1973 and May 21, 1974 from the Secretary of the Maritime Administration state various actions of the Assistant Secretary for Maritime Affairs approving Title II Construction Loan and Mortgage Insurance under the financing plans that were proposed. Those letters recite, inter alia, the following actions of the Assistant Secretary:

"II. Approved the proposed sale and lease financing arrangements, whereby the Cherokee Companies will assign all their rights and obligations under the applications and the Construction Contracts with General Dynamics Corporation (Shipbuilder) dated October 5, 1973 (Construction Contracts) to the Shipowner. The Shipowner will assume the above rights and obligations not in its individual capacity but solely as owner trustee under a trust agreement (Trust Agreement) with the Equity Participants."

"IX. Found under Section 1104(d) of the Act that the property or project, with respect to which the guaranteed obligations will be issued is in his opinion economically sound, subject to the execution of the Bareboat Charters, the Time Charters (Time Charters) between Energy Bareboat Charterers and Burnah Oil Shipping Inc. a Delaware corporation (BOSI), and a guarantee by Burnah Oil Company Limited, a United Kingdom corporation (Burnah) guaranteeing the performance of BOSI under the Time Charters (Burnah Guarantee)."

"XIII. Waived the provision of Section 299,8(c)(5) of General Order 29, Revised, requiring the vesting of title during the construction period in the borrower (Cherokee Companies) to provide for title to be held by General Dynamics Corporation, subject to the Cherokee Companies obtaining a security interest in the Vessels or component parts under the U.C.C."

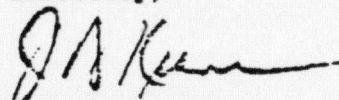
Fundamental to this entire construction plan is the fact that the construction is completely dependent upon (1) satisfactory leverage leasing financing being arranged, (2) the unqualified guarantees by Burnah of the charter payments, (3) the time charter of the vessels to Burnah for employment under the Pertamina contract.

As is reflected in the aforesaid commitment letters from the Assistant Secretary for Maritime Affairs, the Cherokee companies during the construction period hold only a security interest in the vessels or component parts and title to the vessels is being held by General Dynamics Corporation. Obviously, the Cherokee companies would have no legal right to proceed under these ship construction contracts independently or to take any actions inconsistent with the interests of Burnah under the entire financing and chartering plan.

Permanent financing of these vessels has not yet been completed. When it is completed by Burnah, the Cherokee companies have the legal obligation to transfer the contracts to the equity owners. The function of the Cherokee companies in this transaction is dependent upon the ultimate arrangement of long-term financing guarantee under Title XI. If for some reason it should be impossible to arrange Title XI financing, but other financing could be arranged, the Cherokee companies, of course, would have the obligation to transfer the contracts to the equity owners of the vessels under the alternative financing arrangement.

It is perhaps unnecessary to recite the above conditions since we believe they are reflected in the documents and are well understood by all parties. Burnah has requested the Maritime Administration for approval under Sections 9 and 37 of the Shipping Act, 1916, as amended, 46 U.S.C. 809, 835, for the issuance to Burnah of the evidence of indebtedness secured by a chattel mortgage on the vessels or component parts in order to protect the funds which Burnah has advanced to the respective Cherokee companies for payment to the shipyard, in the aggregate principal amount of \$29,310,117.23. Upon approval by the Maritime Administration, the Cherokee companies will execute the required documents to provide Burnah with the requested security interest. It seems desirable in connection with this request to the Maritime Administration to clarify the points set forth in this letter, a copy of which is being sent to the Maritime Administration.

Sincerely,



J.B. Keane
Vice President
Finance

CC: The Honorable Robert J. Blackwell
Assistant Secretary for Maritime Affairs
United States Department of Commerce
Washington, D.C. 20230

Deputy General Counsel

Burmah Oil Incorporated

1111 AVENUE OF THE AMERICAS
 NEW YORK, NEW YORK 10036
 (212) 678-6500 TELEX-128734



April 28, 1975

CERTIFIED MAIL —
 RETURN RECEIPT REQUESTED

Energy Transportation Corporation
 540 Madison Avenue
 New York, New York 10022

Attention: J. J. Cuneo

Gentlemen:

This is in reply to your letter of April 23, 1975 to Burmah Oil Inc. on behalf of your Cherokee subsidiaries in response to Burmah Oil Inc.'s letter of April 18, 1975.

Your letter appears to allege an equity position for your Cherokee companies in the Cherokee I through V construction contracts with General Dynamics. We categorically reject any such contention.

The Cherokee companies were organized solely for the purpose of holding the construction contracts until the bank leasing company owners and Title XI financing arrangements were completed, at which time all right, title and interest of the Cherokee companies in the construction contracts was to be assigned to the owner-trustee on behalf of the leasing company owner participants. And this plan is clearly set forth in the application for, and Maritime Administration letters of commitment with respect to Title XI financing of the ships.

The foregoing financing plan has been frustrated by the withdrawal of the contemplated leasing company owner participants. This change in circumstances with respect to the originally contemplated financing plan, however, in no way changes the role of the Cherokee companies in the transaction as that of an accommodation party having no equity in the vessels or construction contracts. ~~In this regard we again note that all costs and expenses of the Cherokee I through V project, including all costs and expenses of the Energy Cherokee group, have been paid for by Burmah.~~

In view of the frustration of the original financing plan, and Burmah's decision to provide no further funding of construction except directly to the shipbuilder, rather than through the Cherokee companies, we hereby demand that you cause your Cherokee companies to obtain the

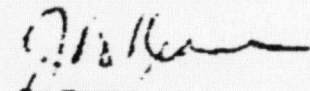
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DEPARTMENT OF COMMERCE
 MARITIME SERVICES
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approval of the Secretary of Commerce to assignments, and thereupon assign the vessel construction contracts to Burnah Oil Tankers Limited so that the vessels can be completed for foreign flag registry now contemplated. Upon execution of the assignments and any necessary consents and compliance with all other requirements of law, we shall cancel the existing indebtedness of the Cherokee companies to us relating thereto.

Sincerely,

BURNAH OIL INC.


J. Keene
Vice President

cc: The Honorable Robert J. Blackwell
Assistant Secretary for Maritime
Affairs
U.S. Department of Commerce
Washington, D.C. 20233

Mr. F. T. Veliotis, President
General Dynamics Corp.
Quincy Shipbuilding Division
97 East Howard Street
Quincy, Massachusetts 02169

EXHIBIT 13 TO NEMIROW AFFIDAVIT - LETTER FROM ROBERT J. BLACKWELL, ASSISTANT SECRETARY FOR MARITIME AFFAIRS, TO ENERGY DATED MAY 1, 1975

May 1, 1975

Energy Transportation Corporation
540 Madison Avenue
New York, New York 10022

Attention: J. J. Cuno

Gentlemen:

I have read with concern the recent exchange of correspondence between the Energy/Cherokee interests and Burmah Oil Incorporated. Many of the facts set forth in these letters do not comport with the understanding of the project held by the Maritime Administration nor in our view with the representations made to us when we considered and issued the commitment to guarantee obligations incurred in the financing of the five LNG vessels being constructed at General Dynamics. If the letters of April 18 and April 28 from Burmah are accurate reflections of the status of the parties, substantial doubt is created concerning compliance with the citizenship requirements of section 2 of the Shipping Act, 1916, as amended.

Since Title XI guarantees are available only to persons qualified as United States citizens pursuant to section 2 who are in no way subject to control by non-citizen interests, it will be necessary to immediately define with some degree of specificity the roles of the participants in this transaction.

I suggest that you respond in writing regarding the issues raised above and if it then appears necessary, I will call a meeting of the Energy, Cherokee, Burmah and Maritime Administration interests to resolve this matter.

Sincerely,

/s/

ROBERT J. BLACKWELL
Assistant Secretary
for Maritime Affairs

cc:
Mr. J. B. Keane
Vice President Finance
Burmah Oil Incorporated

220.1 NEMIROW, S.B.:plb:5-1-75
cc: 100, 220.1, 220.3

EXHIBIT 14 TO NEMIROW AFFIDAVIT -
DEPARTMENT OF JUSTICE OPINION

LU:WF:ed

cc: Files

Mr. Nemirow-D.Gen.C.

Maritime Admin.

Mrs. Gauf

Mr. Funk

RETRIEVAL

MEMORANDUM TO DUDLEY CHAPMAN
Associate Counsel
The White House

APR 9 1975

Re: Questions Concerning Maritime Construction
Subsidies

This is in response to your memorandum to this Office of December 18, 1974, requesting an opinion as to whether certain alleged facts, if true, indicate that either the letter or intent of the Construction-Differential Subsidy (CDS) subchapter of the Merchant Marine Act of 1936, as amended, 46 U.S.C. §§ 1151 et seq. (hereafter "the Act"), is being violated.

The facts, as alleged, involve a number of tankers and LNGs (Liquid Natural Gas ships) being constructed in American shipyards with the aid of a CDS in effect for Burmah Oil, Ltd.,*/ a British corporation. In actuality, the vessels are being constructed for American corporations, which are American citizens within the meaning of Section 2 of the Shipping Act, 1916, ch. 451, 39 Stat. 729, as amended (46 U.S.C. § 802). The cost of construction is being met by a CDS to those companies as well as by borrowed funds.**/

*/ Burmah Oil has been much in the news lately. The British Government was required to step in and guarantee a large part of Burmah's dollar obligations in light of Burmah's large losses during the past year in its tanker operations. See N.Y. Times (city ed.), Jan. 3, 1975, p. 37, c. 1; the Wall Street Journal (Eastern ed.), Jan. 3, 1975, p. 6, c. 1.

**/ In addition to a CDS the companies receive the benefit of Title XI construction loan guarantees, see 46 U.S.C. §§ 1271 et seq., and later the bank/trustee will receive a Title XI mortgage guarantee, id. Applications for both these guarantees have been made by American citizens as required by law, see 46 U.S.C. § 1273(a).

Prior to delivery, the shipbuilding contracts are sold by the American corporations to an American citizen bank. This bank, while titleholder of the ships, acts as a trustee for the equity participants who actually enjoy the benefits of ownership, e.g., accelerated depreciation. The bank, as trustee, then bareboat charters the vessels to an American citizen marine operating corporation. This company is actually responsible for the manning and operation of the vessels. In accordance with Maritime Administration requirements and approvals the vessels will then be time chartered to a Burmah Oil affiliate, a corporation organized under Delaware law but not a citizen under 46 U.S.C. § 302. This time charter must be approved by the Maritime Administration under Sections 9, 37, and 41 of the Shipping Act, 1916, as amended (46 U.S.C. §§ 808, 835, 339), since the vessel will be leased to a person who is not a citizen of the United States.

The basic transaction is an example of the modern and popular form of financing known as lease financing--by which planes, railroad cars and ships are increasingly financed today--in combination with conventional maritime bareboat charters and time charters. The ability of financial institutions to receive CDS support in the construction of ships for the purpose of leasing them to a U.S. citizen operator was explicitly recognized by Congress in the Act of December 31, 1970, Pub. L. No. 91-603, § 4(a), 84 Stat. 1675, amending 46 U.S.C. § 1151. It was explained in the report of the committee which drafted the amendment that because of the need for capital from the private sector, it was necessary to allow the utilization of the most efficient, modern and flexible techniques of financing. See S. Rep. No. 91-1424, 91st Cong., 2d Sess. 3 (1970). This amendment in effect ratified the view already held by the Secretary of Commerce in approving CDS grants. As was said in the Department of Commerce report on the amendment, included in the committee report:

Our interpretation of the existing title V of the 1936 Act is that the Secretary of Commerce is now authorized to grant construction-differential subsidy for the construction of vessels which the owner will lease to another. . . . There is no requirement in title V that the owner operate the vessel.

Id. at 10.

The only problem posed by the facts is that the time charterer is a citizen, as defined in 46 U.S.C. § 802, of the United Kingdom, not of the United States, and the question then arises whether the approval of a CDS, the effect of which appears to aid a non-United States citizen, violates either the letter or the intent of the Act.

The letter of the law allows "Any proposed ship purchaser who is a citizen of the United States or any shipyard of the United States" to make application to the Secretary of Commerce for a CDS. 46 U.S.C. § 1151. As can be seen, only the proposed ship purchaser is explicitly required to be a citizen of the United States, and inasmuch as the financial corporations actually purchasing the ships are citizens of the United States, the citizenship requirement under the alleged facts is met.

The Secretary of Commerce may approve an application for a CDS if he determines that --

- (1) the plans and specifications call for a new vessel which will meet the requirements of the foreign commerce of the United States, will aid in the promotion and development of such commerce, and be suitable for use by the United States for national defense or military purposes in time of war or national emergency;
- (2) if the applicant is the proposed ship purchaser, the applicant possesses the ability, experience, financial resources, and other qualifications necessary for the operation and maintenance of the proposed new vessel, and

(3) the granting of the aid applied for is reasonably calculated to carry out effectively purposes and policy of this [Act].

46 U.S.C. § 1151(a). The first requirement deals with the general need for and the technical specifications of the ship itself. The second determination required to be made by the Secretary is whether the applicant, if the purchaser, possesses the qualifications necessary for operation and maintenance of the vessel. But this applies only to the ship purchaser, not to the ultimate operator of the ship or the lessee. Where the ship purchaser intends to lease the ship, the language relating to the operator's ability necessary for the operation and maintenance of the proposed new vessel is interpreted to mean the lessor's ability to service the lease. See S. Rep. No. 91-1424, supra, at 10. The final determination required of the Secretary is an overall determination--that the granting of the CDS "is reasonably calculated to carry out effectively the purposes and policy of [the Act]." Those purposes and policy are found in Section 101 of the Act, as amended, 46 U.S.C. § 1101. It provides:

It is necessary for the national defense and development of its foreign and domestic commerce that the United States shall have a merchant marine (a) sufficient to carry its domestic water-borne commerce and a substantial portion of the water-borne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of such domestic and foreign water-borne commerce at all times, (b) capable of serving as a naval and military auxiliary in time of war or national emergency, (c) owned and operated under the United States flag by citizens of the United States, insofar as may be practicable, (d) composed of the best-equipped, safest, and most suitable types of

vessels, constructed in the United States and manned with a trained and efficient citizen personnel. It is declared to be the policy of the United States to foster the development and encourage the maintenance of such a merchant marine, and (e) supplemented by efficient facilities for shipbuilding and ship repair.

This policy can be seen to serve generally two interests--the national security and the national economy. The economy is served by aiding the shipbuilding and allied industries, by employing American seamen on the ships built with a CDS, see 46 U.S.C. § 1132, and by improving the United States' balance of payments through freight payments to American owners or lessees rather than to foreigners for the cost of ocean transportation. The national security is served by maintaining a modern and efficient maritime services industry which can serve as a mobilization base in time of war, by insuring the construction of American-flag ships which may readily be requisitioned in time of war or national emergency, see 46 U.S.C. § 1242, and by assuring that American foreign commerce shall not be subject to the control of other nations who could strangle it in the event of war or for other reasons.

It would appear that the interests of national security and the national economy have been served in all, or almost all, of the above-mentioned ways despite the time charter of a CDS-built ship to a Burnah affiliate. First, clearly the shipbuilding industry and allied industries are supported no matter who is the ultimate user of the ships' services. Moreover, no matter who leases the ships, they must still be manned by United States citizens, see 46 U.S.C. § 1132, and be registered and documented in the United States, see 46 U.S.C. § 1153. Likewise, a modern and efficient maritime services industry is maintained notwithstanding whoever may lease the ship. While a long-term lease of CDS ships to a foreigner may reduce the amount of funds returning to the

United States for purposes of balance of payments from what they might have been had the lease been to an American citizen corporation, the reduction should not be substantial as a percentage of the revenues earned by the ships. That is, only the lessee's profit, if any, would not return to the United States. Notwithstanding the nationality of the lessee, a CDS ship must be utilized in foreign trade, see 46 U.S.C. § 1156, a term generally defined as trade between the United States and a foreign country, see 46 U.S.C. § 1244. Thus, a foreign nation, even if the lessee of a CDS ship were from that nation, could not legally deny the use of the ship in foreign commerce with the United States, and any such denial would be a violation of the lessee's contract. The final question would appear to be whether the time charter of a CDS ship to a foreign national would in some way hamper the ability of the United States to requisition or purchase such ships in time of war or national emergency pursuant to 46 U.S.C. § 1242. As a legal matter, it seems clear, the time charter to a foreigner would have no impact on the ability of the government to requisition a CDS ship. As a practical matter, it might possibly have some impact. That is, although the time charterer is an American corporation (but not an American citizen for purposes of the Act), its parent company, Burmah Oil, Ltd., is not, and theoretically this foreign corporation might desire to resist a requisition order either because of its own corporate interests or due to pressure from its own government. The fact that the operation and control of the vessel is actually and legally the responsibility of the bareboat charterer, who is an American citizen within the meaning of 46 U.S.C. § 802, and not the time charterer, eliminates most if not all of the possibility of willful noncompliance. Moreover, Burmah Oil is a citizen of the United Kingdom, and it is unlikely that the national interests of the United Kingdom and the United States would be so divergent as to provide a motivation for Burmah through its U.S. subsidiary to endeavor to order the bareboat charterer willfully to refuse to obey a United States requisition order. Finally, Burmah Oil and its

affiliate--the time charterer--both have assets present in the United States which would lend themselves to seizure if Burmah or the time charterer impeded the fulfillment of requisition order.

Upon all these facts, therefore, it cannot be said that the economic and national security interests served by the Act would not continue to be served despite the lease of the ships to an American affiliate of Burmah. And because these interests appear generally to be served, the determination by the Secretary, that approval of a CDS for these ships "is reasonably calculated to carry out effectively the purposes and policies of [the Act]", is supportable.

Notwithstanding the above conclusion that in this particular case neither the letter nor the intent of the Act can be said to have been violated by a time charter of a CDS ship to an affiliate of Burmah Oil, it would seem that the citizenship of a lessee of a CDS ship should be a matter of some concern to the Secretary in considering whether to approve an application for a CDS. Section 101 of the Act, cited above, explicitly states that "It is necessary for the national defense and development of its foreign and domestic commerce that the United States shall have a merchant marine . . . owned and operated . . . by citizens of the United States, insofar as may be practicable. . . ." (emphasis added) We are informed that the Secretary reviews all CDS applications with an eye to the nationality of the ultimate lessee, and to the extent possible American lessees are favored over foreign ones.

It would appear that as to the particular transaction addressed herein the Secretary did assure himself that the operation and control of the vessels in question would remain the responsibility of the bareboat charterer, an American citizen as defined in the Shipping Act, 1916. Moreover, he assured that the time charterer, the ultimate user, was a corporation organized under the laws of the United States, albeit not a citizen under the Shipping Act,

1916. Based on the nature of this transaction and the facts as set forth above we are unable to conclude that there occurred a violation of either the letter or the intent of the Act.

Leon Ulman
Deputy Assistant Attorney General
Office of Legal Counsel

EXHIBIT 15 TO NEMIROW AFFIDAVIT - COPIES OF LETTERS APPEARING IN THE CONGRESSIONAL RECORD ON MAY 25, 1976

May 25, 1976

CONGRESSIONAL RECORD—HOUSE

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vide a base for continuing guerrilla warfare. We were the first Americans to see these tunnels in their depth. The tunnels are miles long—some we saw went in and out, and connected for 12 miles! And are ready to go with air systems, lighting, heating, supplies. Some even have schools and theatres to pursue the ideology of Mao. It is hard to imagine a well performed dance recital and acrobatic show on a full size stage in a theatre 60 feet underground—but we witnessed this scene with our own eyes.

China's children, many as young as 8 years both boys and girls, are proficiently trained in the use of rifles and hand grenades. On our visit to a school in Manchuria, a demonstration of this expertise was a skin tingling experience for it conjured up a mental image of a society of nearly 900,000,000 sharpshooters—but this image is no fantasy, it was real.

We were the first Americans to see the Red Army of China in action. (Heretofore, no Americans were permitted even to take a photo of a man in uniform.) These soldiers, incidentally, wear little identifications to differentiate them from the rest of the population. They don the same drab Mao suits but with two red patches on the collar and a red star on the cap. No insignia is worn to denote rank.

Otherwise we did not see guns in the hands of the people. The street police carried sidearms but there was no overt display of armed guards. Crime is not a factor in this controlled society; deviators or violators are simply not tolerated. The penalties are harsh, but first comes a severe dressing down by party officials and the threat of expulsion from the Party. A demotion from "comrade" to "mistake" is the ultimate disgrace.

Drug abuse does not exist in the PRC, say the Chinese for it, too, is not tolerated; the use of illegal narcotics is forbidden by the Red Book. They told us that, contrary to reports we have seen indicating groups of Chinese (renegades perhaps) are trafficking illegally near the Burmese border in concert with Burma's Communist regime, they have knowledge of these actions. I do not believe this contention; my investigations into Far East drug traffic have convinced me otherwise.

I had been asked, before leaving Washington, to deliver a request by Sonny Montgomery, Chairman of the House Select Committee on MLAs, to the Cambodian Embassy seeking information on Americans still listed as "missing." In Peking, I asked the U.S. legation to accompany me, but I was turned down for they said it would embarrass the Chinese. Imagine, embarrassing the Chinese by requesting information on our own civilian and military people missing in Cambodia! I went to the Cambodian Embassy alone.

They must have been notified of my intention, for when I arrived, the PLA guard offered no resistance to my cab going right into the Embassy compound. I rang the bell, there was no answer. I rang again, still no answer. I tried the door; it was open. I walked into a deserted room, shouted "hello, anyone here?", but no one answered. I could hear voices coming from somewhere in the building, but all the inside doors were locked. I placed the letter of inquiry on the information desk in the reception room and left. My mission had been accomplished; I had hand delivered the message to the Cambodian Embassy, but it left me with an eerie feeling. I even wondered if I would get out in one piece.

The Cambodian government has yet to answer one request for information on the MLAs. Is it too much to ask these people about the fate of our people? The war is over!

That China is unique, again is without question. I undertook the trip to investigate and assess the role China plays in our in-

creasingly interdependent world to better place her aims in context with multi-national interest.

What does all this add up to? A culture, an ideology far different from ours and the "twin" still prevails: East and West won't meet for a long, long time.

China is prepared to go its own way. They are prepared to put ideological differences aside for the time being while they face what they consider is a mutual threat by the Soviets. "We have," they say, "parallel interests." They want no military alliance—"You take care of your threat in the West, and we'll hold our own in the East."

What does it come down to? Their interest is to build our interest in the Russian threat. No further progress in joint relations can be achieved, they say, until "normalization occurs"—an exchange of ambassadors and the end of our relationship with Taiwan.

There are some who say this should be done before Mao passes from the scene, before the real "radicals" take over. Who knows what that would accomplish. Today China is only prepared to say "normalization" will mean "progress in our relations."

FINANCE OF SHIPS FOR TRANSPORT OF LNG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, on March 3, I wrote to the Administrator of the Maritime Administration, Mr. Blackwell, concerning MarAd's probable financing of five ships for the use and transport of liquefied natural gas—LNG—from Indonesia to Japan. I raised two questions concerning the deal. First I asked whether or not the beneficiaries of MarAd's insurance program were truly U.S. citizens. Second, I raised a series of questions concerning the true beneficial owners of a subsidiary which will directly benefit from the building of these five tankers.

Mr. Speaker, the response of the Maritime Administration was totally unsatisfactory. As a result, I have written to Chairman Jack Brooks of the Committee on Government Operations and asked him to review the problem.

So that Members of the House may be fully informed about the matter, I am inserting in the Record a copy of my original March 3 letter on this subject, the Maritime Administration's reply, and my letter today to Chairman Brooks.

The letters follow:

WASHINGTON, D.C.,
March 3, 1976.

Mr. ROBERT J. BLACKWELL,
Director, Maritime Administration,
Washington, D.C.

DEAR Mr. BLACKWELL: It is my understanding that, in late 1973, Pertamina, the state-owned Indonesian oil company, agreed to sell to Japan large amounts of LNG over a twenty-year period. Burmah East Shipping Corporation, a majority-owned (about 65%) third-tier subsidiary of financially troubled Burmah Oil Company, Ltd., entered into an agreement with Pertamina to transport the LNG. In order to fulfill a major share of this obligation, Burmah, through complex corporate structures and agreements involving establishment of new companies under U.S. law, has arranged for the construction and financing of five LNG tankers to be built by General Dynamics Corporation. As a key part of the financing of these vessels, costing a half billion dollars, applica-

tion has been made to MarAd for title XI ship mortgage insurance. I also understand that MarAd has issued preliminary commitments.

I am concerned that the integrity of the citizenship requirements of U.S. law, which must be met in order to secure title XI insurance, be maintained. Neither Burmah nor Burmah meets the applicable citizenship test, but my own analysis of the complex maze of corporate structures and agreements has led me to identify several factors indicating that the key parties with real interests and overall control over the U.S. participants are Burmah and Burmah.

This conclusion, of course, is drawn on the basis of incomplete access to facts, and in this connection I am writing to ask: What is your understanding of the contractual, ownership, and other arrangements, whether formal or informal, expressed or simply understood, that bear on the issues determining citizenship, particularly the issue of control?

The lion's share of the minority interest in Burmah is reportedly subject to blind options whose owners remain undisclosed. The shipping arrangements stake enormous amounts of money on a transaction involving parties, for example, Burmah and Pertamina, with financial and other difficulties for them it is especially acute that the deal go through. The approval of officials in foreign governments is required for the transaction. In short, the nature of the deal suggests that it is in a sense tailor-made to create opportunities for discreet advantage-taking, and, especially given the presence of U.S. taxpayer assistance through MarAd, it is important to insist that all the facts be revealed.

In this connection, I would like to ask: What is your understanding as to the ownership of Burmah? Also, what steps has MarAd taken here, and what steps does it take as a matter of its usual procedures (a) to assure that it gains a thorough understanding of where the financial and other benefits of its title XI program ultimately lodge in each case, and (b) to assure that the transaction or projects in which MarAd involves itself are free of any taint or corruption beyond U.S. shores?

In so far as my questions pertain to the Indonesia-to-Japan transaction, I would think it would be helpful to Congress in fulfilling its responsibilities if you provided us all the documents you have that bear on the question.

Thank you very much for your cooperation in this matter.

Sincerely,

LES ASPIN,
Member of Congress.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., April 21, 1976.

HON. LES ASPIN,
House of Representatives,
Washington, D.C.

DEAR Mr. ASPIN: This is in response to your letter of March 3, 1976 regarding certain questions raised in conjunction with the proposed financing of the five vessels under construction at General Dynamics for use in the Indonesia to Japan liquefied natural gas project.

By way of background, the Maritime Administration received five applications for Title XI guarantee, the first four dated August 8, 1973 and the fifth dated February 12, 1974. Conditional commitments to guarantee obligations (Commitments) were issued November 7, 1973 for the first four vessels and May 21, 1974 for the fifth vessel. In accordance with your request we have enclosed copies of those Commitments.

The applications for Title XI guarantees were made by Charokee I, II, III, IV and V Shipping Corps, which are incorporated in the State of Delaware. Energy Transportation

CONGRESSIONAL RECORD — HOUSE

May 25, 1976

also a Delaware corporation is a stockholder of each of the two companies and is one hundred per cent owned in turn either directly or beneficially by three United States citizens with shipping backgrounds, Mr. C. Y. Chen, Mr. Joseph Cuneo and Mr. Jerome Shelby. The proposed financing arrangement contemplates that Energy I, II, III, IV and V, Inc., Delaware corporations which are wholly owned by Energy Transportation, will bareboat charter the vessels for a period of 25 years from an owner trustee whose equity participants will be U.S. citizens. The Energy Companies in turn will time charter the vessels to Burmah Oil Shipping Inc., (BOSI) a wholly-owned Delaware subsidiary of Burmah Oil Company Ltd. (Burmah) for a period of 25 years from delivery of the vessels. Both bareboat and time charters will be in full "hell and highwater" form, meaning that charter hire is due and payable under any and all circumstances and cannot be terminated prior to 25 years from vessel delivery unless the Title XI obligations are fully repaid (see Sections X and XI of the Commitments). In addition, Burmah is providing a full guarantee of the performance of BOSI under the time charters and the Bank of England has given permission under the Exchange Control Act of 1947 for perfection of the Burmah guarantee as outlined in Sections XXI, XXVI and XXVII of the Commitments.

This guarantee is backed by the creditworthiness of Burmah, which at the time of the Commitments, had a 22% interest in British Petroleum Co. Ltd., annual profits of \$79 million and a net worth of \$1.6 billion. The strength of the company at that time was such that Burmah was able to have major U.S. financial institutions extend substantial credit for various projects. While Burmah has suffered losses within the last year it is in the process of restructuring its assets and liabilities most notably through the sale of its British Petroleum stock and its interests in North Sea oil field properties with a view toward improving its cash flow.

The underlying Transportation Agreement dated September 23, 1973 is between Burmast East Shipping Corp., (Burmast) a company majority owned (57 1/2%) by Burmah through its subsidiary, Burmah Oil Tankers, Ltd., and Perusahaan Pertamina Bimab Dan Gas Bumi Negara (Pertamina) the Indonesian state oil company. The Transportation Agreement between Burmast and Pertamina is a 20-year (from initial loading of each vessel) "take or pay" contract which provides for the transportation of LNG from either East Kalimantan to Japan or North Sumatra to Japan. The Transportation Agreement provides for escalation of revenues for the following: vessel operating costs (crew costs, stores, subsistence, insurance, maintenance and repair), additional construction costs of changes and extras and certain "unavoidable costs." All rights and obligations under the Transportation Agreement are to be assigned by Burmast to BOSI. Payments due from Pertamina will be paid to an as yet undesignated indenture trustee which will deduct from such revenues an amount equal to the bareboat charter hire for payment of Title XI principal, interest, guarantee fee plus a return to the equity participants. The balance of the revenues will be disbursed to BOSI.

Pursuant to a Profit Sharing Agreement between BOSI and Burmast, the proceeds remaining from said revenues before taxes, but after deducting all expenses, will be divided in a ratio of 25% for BOSI and 75% for Burmast. (See Sections XIII, XV and XXVIII of the Commitments). A finding of economic soundness in the Commitments was based on the Transportation Agreement. Burmah's full guarantee of BOSI's performance under the 25 year "hell and highwater" time charter with the Energy Companies was obtained for additional security. In addition, if a per-

manent force majeure exists and Pertamina is unable to furnish cargo, Pertamina will pay Burmast the unamortized financing costs of the vessels in either lump sum or continuing daily payments of such costs. Such payments are also to be made to the indenture trustee who will either continue to pay the bareboat charter hire in the manner indicated above or will redeem the outstanding Title XI obligations.

With regard to your specific questions on the issues of citizenship and control, it is required that operations, control and equity interests in the vessels be vested in United States citizens in accordance with the Shipping Act, 1916, as amended. The Shipowner, equity participants, bareboat charterers and the Cherokee companies all were required to furnish satisfactory evidence of United States citizenship (see Section XXI of the Commitments). In addition, Section XXIV of the Commitments requires all the above parties to meet all applicable statutes and regulations. The time charterers, whose ultimate foreign ownership renders them ineligible as U.S. citizens within the meaning of the Shipping Act, 1916, as amended, must be approved pursuant to Sections 9, and 37 of that Act which gives the Secretary of Commerce authority to approve the charter to a non-citizen (see Section XXVIII of the Commitments). Since Burmast is not a direct party to the Title XI transaction we took certain measures to increase our security; namely, we required the assignment of the Transportation Agreement to BOSI, which as previously stated, is involved in the Title XI transaction as time charterer, and we acceded to the profit sharing arrangement enumerated above, in order to obtain a full guarantee of the time charter by Burmah.

The five Cherokee vessels are being built entirely without the payment of subsidy by the U.S. Government. The applicant has paid into the Federal Ship Financing Fund (which currently has a balance of approximately \$65 million as a result of profitable operations and after deducting all expenses of the Program) a total of over one-half million dollars in investigation fees and will pay to the Maritime Administration approximately \$20 million in guarantee fees over the life of the project. No taxpayers' monies are directly involved in this project because of the nature of the Title XI program.

In deciding to go forward with the Cherokee project, the Maritime Administration was mindful of its mandate from Congress as stated in the Declaration of Policy contained in Title I of the Merchant Marine Act, 1936, as amended, which states "the United States shall have a merchant marine . . . capable of service as a naval and military auxiliary in time of war and national emergency . . . composed of the best equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel, and . . . supplemented by efficient facilities for shipbuilding and ship repairs." We believe that the Cherokee project meets these criteria. Without the availability of Title XI financing, it is most probable that the vessels for this project would have been built in foreign shipyards and operated under foreign flag with the resulting loss of a substantial number of seagoing and shipyard jobs for American citizens, the loss of the availability of the vessels to the United States in time of national emergency and the balance of payments loss of freight revenues.

In summary, the maritime assistance approved for these applications will assist in the construction of 5 LNG vessels which will be documented under U.S. flag and manned by U.S. crews. The applications of the Cherokee companies for Title XI were approved after it was determined that the

applications fulfilled all statutory requirements and applicable regulations of this Agency.

Thank you for your interest in this matter.

Sincerely,

ROBERT J. BLACKWELL,

Assistant Secretary, for Maritime Affairs.

WASHINGTON, D.C., May 25, 1976.

HON. JACK BROOKS,

Chairman, Committee on Government Operations, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On March 3 of this year I wrote to the Administrator of the Maritime Administration, raising a number of questions with respect to MarAd's possible financing of five ships for use in the transport of LNG from Indonesia to Japan. My concerns were basically two—first, maintaining the integrity of the citizenship requirements applicable to MarAd financing, and second, assuring that this transaction and others in which MarAd involves itself are free of any taint or corruption beyond American shores.

The response to my letter, dated seven weeks later, April 21, was unsatisfactory, leaving most of my questions unanswered. My purpose in writing to you is to call this matter to your attention and to request that the staff of the Government Operations Committee inquire into this matter. I believe it is important that Congress exercise its oversight responsibilities in a way that assures that all the facts are brought out and that MarAd is properly and thoroughly exercising its responsibilities.

The first concern I expressed to MarAd was that the integrity of citizenship requirements applicable to MarAd financings be maintained. I suggested that the financing arrangements for the five ships in question were highly complex, but I added that I had identified several factors indicating that the key parties with real interests and overall control over apparently nominal United States participants were Burmah Oil Company Ltd. ("Burmah") and Burmast East Shipping Corporation ("Burmast"), a majority-owned subsidiary of Burmah. Both of these are foreign corporations. Hence, I inquired as to MarAd's understanding of the contractual, ownership, and other arrangements, whether formal or informal, expressed or simply understood, that might bear on the issues determining citizenship, particularly the issue of control.

MarAd's response provided only the barest description of the technical corporate aspects of the transaction. It recited that the applications for MarAd financing were filed by five Cherokee companies, which are incorporated in Delaware and which are wholly-owned by Energy Transportation Corporation, also a Delaware company, which in turn is owned by three United States citizens. The MarAd response also discussed the financing and charter arrangements for the vessels in question.

However, this does not come to grips with the applicable statutory definition of the term "citizen" (46 U.S.C. 802(a)), which specifically invokes the concept of "controlling interest." The parties involved in a particular transaction may found their corporations under Delaware law and assign United States citizens to stand as their officers and directors but the key question of "controlling interest" still remains. The law (i.e. 802 (b)) carefully defines "controlling interest." Thus, if it is so arranged that the majority of voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen, or "if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States," the control test will not have been satisfied.

May 25, 1976

CONGRESSIONAL RECORD—HOUSE

H 4911

In the case of *Meacham v. United States*, 207 F. 2d 535 (4th Cir. 1953), the Court, feeling itself "compelled to observe the substance rather than the form of the transaction," looked behind a facade of corporate citizenship to numerous practical considerations demonstrating that the nominal United States parties were expected to and did exercise their power in the interests of various foreigners wherein fact were in control.

In many respects, as far as I am able to determine on the basis of facts available to me, the present case involving the Cherokee vessels is, like *Meacham*, a textbook example of questionable citizenship control. Consider well the following facts, which MarAd must have, or should have, known:

Joseph J. Cuneo, President of Energy Transportation, and one of its three owners, was previously President of John J. McMullen Associates, Inc. John J. McMullen was until recently President of Burmah. Mr. Cuneo is understood to be close to Burmah.

Dr. C. Y. Chen, Chairman of Energy Transportation and another of its owners, was one of the parties who had helped organize the complex scheme which was held violative of section 2 of the Shipping Act in the *Meacham* cases 207 F.2d at 539.

Further, Jerome Shelby, Vice President, Treasurer, and Director of Energy Transportation, and its third owner, is a partner in the large New York City law firm which not only represents the Cherokee companies on the title XI applications, but also, I understand, provides general representation to Burmah and its subsidiaries on a host of matters. Another partner of this firm, Stephen C. Dune, is Director and Secretary of Energy Transportation.

Burmah has reportedly guaranteed the Cherokee companies' contracts with the shipbuilder.

Burmah, not Energy Transportation or the Cherokee companies, is the company putting up over \$100 million so far for the five Cherokee vessels.

Burmah itself has spoken of the construction contracts as though they were Burmah's alone.

The ships are and always have been dedicated to filling the transport obligations of Burmah, a majority-owned Burmah subsidiary.

Burmah itself is also guaranteeing those transport obligations.

Once the vessels have been built, control over them is turned over to Burmah and its affiliates through a series of charters and agreements.

Through Burmah and other subsidiaries or affiliates acting as charterers, Burmah seems destined to receive the larger benefits of the overall shipping arrangements, including title XI insurance. Burmah and Burmah Oil Shipping, Inc., a wholly-owned Burmah subsidiary, will divide the profits of the transportation agreement.

In contrast, Energy Transportation and its subsidiaries seem to have only a transitory and passive role. MarAd did not indicate what financial benefits those concerns anticipate.

Burmah has reportedly represented that it has the power to oust Energy Transportation and its subsidiaries from any role whatsoever.

It is interesting that MarAd's letter to me made no mention of a possible new role for General Dynamics in the Cherokee transaction, even though news accounts in recent weeks have reported that American company's announced desire to take an "equity interest" in the ships. Surely MarAd must know something concrete of General Dynamics' plans, the nature of the so-called "equity interest," and the nature of any remaining foreign interests. Here again MarAd's letter is silent.

Of course, I am not in a position to know all the relevant facts here, so I cannot presume to draw a firm conclusion. It does seem to me, however, that there is a serious question of citizenship. MarAd must recognize this. Indeed, the contingencies in its preliminary commitments for financing require each Cherokee company to furnish "satisfactory evidence" of citizenship prior to closing. Regrettably, MarAd's letter to me reveals a too-easy willingness to be "satisfied" with technical corporate documentation, and insufficient attention to factors bearing on control—even in the face of my specific request focusing on control.

I believe it is advisable, under the circumstances, that an appropriate congressional scrutiny be brought to bear to assure that the administrative agency involved gives full and thorough consideration to the real issues at stake.

It would certainly not be in the interests of promoting the national security and domestic and foreign commerce of the United States to use title XI resources to help finance construction of vessels to be controlled by foreign interests.

My second question relates to an area of acute concern to all of us in government at this time. My March 3 letter pointed out to MarAd that the shipping arrangements in this LNG transaction involve enormous amounts of money making it at least more possible for ingenious minds to find slack somewhere. Moreover, the transaction involves parties, e.g., Burmah and Pertamina (Indonesia's state-owned oil and gas conglomerate), that are in serious financial and other difficulties—for them it is gravely important that the deal go through. Finally, the approval of officials in foreign governments is required for the transaction. In short, the nature of the deal suggests that it is in a sense tailor-made to create opportunities for discreet and possibly questionable payments.

Beyond that, I explained that I understood that, while Burmah owns a bare majority in Burmahast, the lion's share of the minority interest (around 40 percent) in Burmahast was subject to blind options whose owners have never been revealed. Hence, I asked MarAd what it understands as to the ownership of Burmahast. I also inquired what procedures MarAd follows (a) to assure that it gains a thorough understanding of where the financial and other benefits of its financial programs ultimately lodge and (b) to assure that the transactions or projects in which MarAd involves itself are free of any taint or corruption beyond American shores.

MarAd's response to this was not enlightening. If MarAd knows no more than what it told me, MarAd does not know enough. The April 21 letter simply recited that Burmah owns 57½ percent of Burmahast. Nothing was said about who owns the rest. Nothing was explained as to MarAd's procedures.

Again, let me be precise about my concern. I do not intend to make loose charges at the parties involved. I just want the facts to be revealed and permitted to speak for themselves. Opportunities seem to be present here for the kinds of activities that infect the integrity of overseas transactions. It is all the more important to protect the integrity of such a transaction where United States taxpayer backing is present in the form of MarAd title XI guarantees. Who owns the 40 percent? Who is getting the benefits of MarAd's assistance? Why? What did those persons contribute to the transaction in return for this value?

Not even do I mean to charge that MarAd has failed in its duties to this point, however. I do believe that what MarAd has told me is not enough, and in its own way MarAd may feel it has a stake in seeing this project through. I want to know what the facts

are in this case. I want to know MarAd's procedures for getting at the essential facts.

Since this does raise questions as to government agency procedures in situations where the agency is deeply involved, in this instance financially, in the overseas transaction, I believe it is highly desirable that there be a further inquiry on this issue as well. It seems to me that this could do much to clear the air of any questions still remaining after MarAd's response to my initial inquiry.

Sincerely,

LES ASPIN,
Member of Congress.

RECENT GAO REPORT SHOWS WASTEFULNESS OF FUNDING FOR UNIFORMED SERVICES UNIVERSITY, SCHOOL OF MEDICINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 10 minutes.

Mr. DRINAN. Mr. Speaker, on July 23, 1975, the House by a close vote of 150 yeas to 221 nays, defeated an amendment to the military construction authorization bill which would have terminated the plans for completion of the Uniformed Services University, School of Medicine which was initiated in 1972. On October 8, 1975 an amendment to delete the \$64.9 million in construction money for this project from the military construction appropriations bill was also defeated. The debate on this issue concentrated on the question of cost-effectiveness of training armed services physicians through the scholarship programs or through the Uniformed Services University, School of Medicine.

In May of 1975 the prestigious Defense Manpower Commission submitted its report to the President and the Congress pursuant to the mandate of Public Law 93-155—Department of Defense Appropriations Authorization Act of fiscal year 1974. Following an exhaustive treatment of this subject the Commission wrote a careful analysis concluding that:

Notwithstanding the minimal start-up expenditures that have already been made, the Commission recommends that the Uniformed Services Unit of the Health Science approach be terminated.

The Commission found that construction costs of \$102 million had proven to be substantially understated and that actual costs would be twice that amount. It was also noted that the accession cost per medical graduate would be no lower than \$150,000 and might well exceed \$200,000. This amount is four or five times the \$34,000 cost to the Government of educating a medical graduate through the scholarship program. Moreover, the military university is designed to handle only 170 graduates per year. The same number of individuals could be trained through the scholarship program in private and public universities for about \$6,420,000.

Both the report of the Defense Manpower Commission and a study prepared by the House Appropriations Committee's surveys and investigations staff concluded that the university program was substantially less cost effective than

AFFIDAVIT OF CHARLES FRANKLIN RICHTER,
FOR GOVERNMENT, IN SUPPORT OF MOTION
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

UNITED STATES OF AMERICA, by :
Dorothy S. Greenberg, for :
herself as well as for the :
United States of America, :

Plaintiff, :

-v-

: AFFIDAVIT

THE BLMAH OIL COMPANY LIMITED, :
et al., :

Defendants. :

: 76 Civ. 4351 (WK)

-----x

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

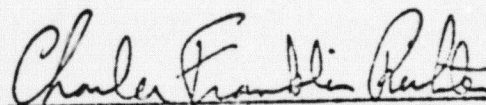
CHARLES FRANKLIN RICHTER, being duly sworn, hereby
deposes and says:

1. I am an Assistant United States Attorney in
the office of Robert B. Fiske, Jr., United States Attorney
for the Southern District of New York and attorney for the
United States of America. I submit this affidavit in support
of the motion to dismiss made by the United States.

2. At my request, the Chairman of the Committee
on Government Operations of the United States House of
Representatives sent to Robert B. Fiske, Jr., a letter,
dated November 29, 1976, a copy of which is attached as
Exhibit "1" hereto. As I have been told by staff members of
the Committee and as is stated in the letter, the Committee
had in its possession prior to the commencement of this
action the following documents among those listed in

Schedule A to the complaint:

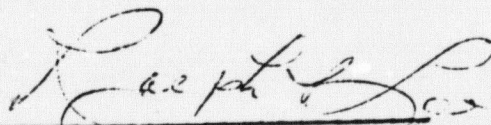
- a. An undated 17 page memorandum which appears to be an internal memorandum of Burmah Oil Company, Ltd. (Item 1 on Schedule A)
- b. A five page memorandum dated August 21, 1976, from Richard Kurrus to John McMullen (Item 3 on Schedule A)
- c. A memorandum of law dated September 16, 1975, for Burmah Oil Tankers Limited prepared by Kurrus and Jacobi titled "Legal Status of the Present Ownership and Financing of the Pertamina LNG Vessels" (Item 4 on Schedule A)
- d. Complaint of Burmah Oil Tankers Limited against Elias J. Kulukundis, et al. (Item 5(a) of Schedule A)
- e. Complaint of Burmah Oil Company, Ltd. against Energy Transportation Corporation, et al., dated November 6, 1975.



CHARLES FRANKLIN RICHTER
Assistant United States Attorney

Sworn to before me this

30th day of November 1976.



NOTARY PUBLIC

Notary Public, State of New York
No. 41-12333
Term Expires March 26, 1977

EXHIBIT 1 TO RICHTER AFFIDAVIT - LETTER FROM CHAIRMAN OF
COMMITTEE ON GOVERNMENT OPERATIONS OF U.S. HOUSE OF
REPRESENTATIVES TO U.S. ATTORNEY ROBERT B. FISKE, JR.
DATED NOVEMBER 29, 1976

MAJORITY MEMBERS

JACK BROOKS, TEX., CHAIRMAN
L. H. FOUNTAIN, N.C.
JOHN E. MCCS, CALIF.
DANTE B. FASCELL, FLA.
WILLIAM S. MOORHEAD, PA.
WM. J. RANDALL, MO.
BENJAMIN S. ROSENTHAL, N.Y.
JIM WRIGHT, TEX.
FERNAND J. ST GERMAIN, R.I.
FLOYD V. HICKS, WASH.
DON FUSUA, FLA.
JOHN CONYERS, JR., MICH.
BELLA S. ABZUG, N.Y.
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MICHAEL HARRINGTON, MASS.
ROBERT F. DRINAN, MASS.
EDWARD MEZVINEKY, IOWA
BARBARA JORDAN, TEX.
GLENN ENGLISH, OKLA.
ELLIOTT H. LEVITAS, GA.
DAVID W. EVANS, IND.
ANTHONY MOFFETT, CONN.
ANDREW MAGUIRE, N.J.
LES ASPIN, WIS.

NINETY-FOURTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

2157 Rayburn House Office Building

Washington, D.C. 20515

November 29, 1976

MINORITY MEMBERS

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WILLIS D. GRADISON, JR., OHIO

MAJORITY—225-5051

MINORITY—225-5074

Mr. Robert B. Fiske, Jr.
U. S. Attorney
Southern District of New York
U. S. Courthouse
Foley Square
New York, New York 10007

Re: United States by Dorothy Greenberg v. Burmah Oil Company
Ltd., et al

Dear Mr. Fiske:

In your letter of October 22, 1976, you requested information regarding what, if any, documents the House Government Operations Committee has in its possession that were listed in the complaint filed on September 30, 1976, by Dorothy Greenberg against Burmah Oil Company, Ltd.

The following documents listed in the complaint were in the possession of the committee prior to September 30, 1976:

1. Confidential memo to John McMullen from Richard Kurrus consisting of 5 pages, dated August 21, 1975.
2. Memorandum of law for Burmah Oil Tankers Limited prepared by Kurrus and Jacobi titled "Legal Status of the Present Ownership and Financing of the Pertamina LNG Vessels" dated September 16, 1975.
3. Undated 17 page memorandum which appears to be an internal memorandum of Burmah Oil Company, Ltd.
4. Complaint of Burmah Oil Company, Ltd. against Energy Transportation Corporation, et al, dated November 6, 1975.

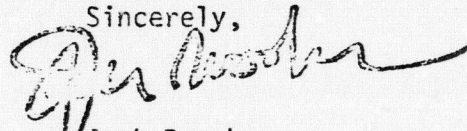
2 - Mr. Robert B. Fiske, Jr.

November 29, 1976

5. Complaint of Burmah Oil Tankers Limited against Elias J. Kulukundis, et al.

This information is provided in an effort to cooperate with you in carrying out your duties as U. S. Attorney. This response should not be taken to infer that the committee believes that documents in its possession are relevant to this action filed under the False Claims Act, Title 31 USC Secs. 231 and 232, nor is it to be treated as a precedent regarding any other requests for information in the committee's possession.

Sincerely,



Jack Brooks
Chairman

AFFIDAVIT OF CALVIN B. KURIMAI, FOR
GOVERNMENT, IN SUPPORT OF MOTION
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA
BY DOROTHY S. GREENBERG,
FOR HERSELF AS WELL AS
FOR THE UNITED STATES
OF AMERICA,

PLAINTIFF,

v.

THE BURMAH OIL COMPANY
LIMITED, ET AL,

DEFENDANTS.

A F F I D A V I T

76 CIV. 4351 (WK)

STATE OF CONNECTICUT:

COUNTY OF NEW HAVEN :

ss. New Haven November 26, 1976

CALVIN B. KURIMAI, being duly sworn, hereby deposes and says:

1. I am an attorney with the Department of Justice and I submit this Affidavit in support of the motion of the United States of America to dismiss this action.

2. By letter dated August 19, 1976, addressed to the Attorney General of the United States, Congressman Les Aspin brought to the attention of the Department of Justice the following information:

a. The New York Times reported several federal agencies were investigating the application of Burmah Oil Company Limited for Title XI guarantees for the construction of eight liquid natural gas tankers at the General Dynamics, Quincy, Massachusetts facility.

b. According to the New York Times, a memorandum of law prepared by a law firm acting for one of Burmah's subsidiaries stated that affidavits of corporate citizenship submitted to the Maritime Administration were fraudulent.

c. An exchange of correspondence with Mr. Robert J. Blackwell, Administrator of the Maritime Administration, was relevant in this matter.

3. As enclosures to the letter, Congressman Aspin, a member of the Committee on Government Operations of the House of Representatives, furnished copies of the two New York Times' articles which he referred to and a copy

of the House Congressional Record containing the aforementioned correspondence with Mr. Blackwell. Copies of these articles and letters are attached as exhibits hereto.

4. Since the receipt of Mr. Aspin's letter, the applications for Title XI guarantees by five corporations, known as Cherokee I Shipping Corporation through Cherokee V Shipping Corporation, has been under review by the United States Department of Justice.

5. This review has also encompassed applications for Title XI guarantees and for construction differential subsidies by Cryogenic Energy Transport Inc., LNG Transport Inc. and Liquegas Transport Inc.

6. This review is currently continuing and I am one of the persons responsible for conducting the review.

7. The complaint and documents submitted by the realtor, DOROTHY S. GREENBERG, in this action were received by the Department of Justice on October 4, 1976, as indicated by the time stamp affixed by the Department of Justice on these papers. Among the copies of newspaper articles which are included in these documents are the two New York Times' articles furnished to the Department of Justice by Congressman Aspin.


CALVIN B. KURIMAI

Subscribed and Sworn to before me
this 26th day of November, 1976.

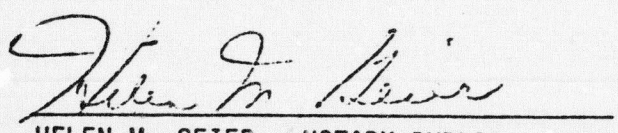

HELEN M. GEIER - NOTARY PUBLIC
(My Commission Expires 3/31/80)

EXHIBIT TO KURIMAI AFFIDAVIT - NEW YORK TIMES ARTICLES

FORD HOLDS THE LEAD UNCOMMITTED DELEG

2 AMERICANS SLAIN BY NORTH KOREANS IN CLASH AT DMZ

4 U.S. Soldiers and 5 South
Koreans Hurt in Assault by
Communists With Axes

Special to The New York Times

SEOUL, South Korea, Aug. 18.—North Korean soldiers, wielding axes and metal pikes attacked a group of American and South Korean soldiers in a demilitarized zone today, because of the possibility of killing two American officers and wounding four American soldiers and five South Korean soldiers.

The attack took place as the American and South Korean soldiers were trimming branches from a tree at the Panmunjom truce site near an armed checkpoint at the south end of the "Bridge of No Return," which was used by prisoners who were exchanged after the Korean War.

According to the United Nations Command, the American and South Korean work group was performing a routine task when two North Korean officers and some soldiers approached and, after some discussion, demanded that the Americans and South Koreans stop trimming the tree.

Order to "Kill" Overheard

Shortly afterward a truck carrying North Korean soldiers drove up and one of the officers was heard to tell the soldiers to "kill" the Americans and South Koreans. Then, according to the United Nations Command's account, the North Koreans rushed the Americans and South Koreans with axes, metal pikes and ax handles.

In Kaesong City, President Ford in a statement condemned the attack on the Americans and South Koreans.

Burmah Oil's U.S. Aid Bid Studied for Possible Fraud

By TERRY ROBARDS

The Securities and Exchange Commission, the Federal Maritime Administration and at least one Congressional committee are investigating whether the Burmah Oil Company, a major British concern, illegally received commitments for Federal guarantees or subsidies to build at least eight huge tanker ships in this country.

Hundreds of millions of dollars in shipbuilding projects and thousands of American shipyard jobs may be in jeopardy because of the possibility of fraud in applying for the Government backing, which is illegal for foreign companies under Federal law.

The ships are under construction at the Quincy, Mass., yards of the General Dynamics Corporation, which received the shipbuilding contracts from Burmah affiliates or subsidiaries. A major portion of the \$1.66 billion in these contracts is understood to be in question. At issue is whether the ships have any right to American subsidies or loan guarantees, since Burmah is not an American company. Federal law specifies that only domestic con-

cerns can receive such Government backing. Commitments for this backing have been made to a group of companies related to Burmah and set up for the express purpose of trying to fulfill the requirements for American citizenship.

Robert J. Blackwell, Assistant Secretary of Commerce for Maritime Affairs and head of the Maritime Administration, said in a telephone interview from Washington last night that the agency "has no information to indicate that there was fraud of any type or wrongdoing" in the Burmah applications.

However, Mr. Blackwell also said that some of the original applications filed by the Burmah affiliates had been "more or less aborted" because the companies could not fulfill some of the conditions specified by his agency.

In addition, a memorandum of law prepared by a Washington law firm for a Burmah subsidiary states flatly that the affidavits of corporate citizenship

Continued on Page 60, Column 1

SOUTH AFRICA CASE 78 INDEPENDENT FOR EX-MANDATE

Plan for South-West
Avoids Issues of Elections
and Guerrilla Groups

By JOHN F. BURTON

JOHANNESBURG, Aug. 18.—Faced with a United Nations ultimatum that expires at the end of the month, a special committee in South Africa today announced a plan for a multiracial government to lead the territory to independence from South Africa by 1978.

The committee's plan was issued in Windhoek.

Text of committee's plan is printed on page 60.

Capital, made of the South-West People's Organization by the United Nations representative of 1,800,000 inhabitants has not been put in the discussions.

Nor did the state any reference to the ultimatum issued by the Council of the International Commission for the Truth and Reconciliation. The commission has been set up to investigate the human rights violations during the apartheid era.

FILIPINOS DESCRIBE HOW DISASTER HIT

Amid Debris on Mindanao
They Tell How Quake and
Tidal Wave Swept Area

By ALICE VILLADOLID

Special to The New York Times

DINAIG, Philippines, Aug. 18.—The coastal strip near this town, an hour's drive from Cotabato City, was once a scenic spot. Today it is littered with debris from a disaster that hit the area last night.

Deportation Faced By Danish Widow Of Stabbing Victim

By JOYCE MAYNARD

The Danish widow of an actor fatally stabbed in Greenwich Village last June is threatened with deportation on the ground that she does not meet United States residency requirements for the marriage exists.

The woman, who had been in the United States for several years, was told that she must leave the country unless she can prove that she is a permanent resident.

BEST COPY AVAILABLE

Burmah Oil's Bid for U.S. Aid on Ships Being Studied for Possibility of Fraud

Continued From Page 1, Col. 3

with Federal law. This was confirmed by an attorney for Burmah, who indicated that General Dynamics would receive an equity interest in the entities.

A memorandum of law prepared by a Washington law firm for a Burmah subsidiary states that the affidavits of corporate citizenship of certain Burmah affiliates that applied for the so-called Title XI guarantees from the Maritime Administration "were fraudulent."

Federal law stipulates that ships built under Federal guarantees or subsidies that were fraudulently obtained are subject to Government seizure. Thus, Burmah could lose a major shipbuilding investment in a blow that would imperil its already troubled financial condition.

Without the loan guarantees, the construction projects would most likely be halted, according to informed sources, because no private financing of the magnitude required could possibly be found in the absence of Government backing.

\$62 Million Loss in 1975

Federal investigators are also looking into allegations of massive self-dealing by a former officer of a major Burmah subsidiary in this country, Burmah Oil Tankers, which lost nearly \$62 million in 1975.

Evidence also exists that payments were made by Burmah subsidiaries or affiliates to obtain contracts to ship liquefied natural gas for the Indonesian Government to certain Japanese utility companies. The payments were allegedly made to unnamed Indonesian generals or other officials.

The potential impact thus extends all the way to Japan, where certain utility companies agreed to buy Indonesian natural gas to be shipped on some of the Burmah tankers now being built in Massachusetts.

The potential impact on General Dynamics remains uncertain, but any loss of Government guarantees or subsidies by Burmah would raise the possibility of a default on its financial obligations to the American concern.

Major Contractor

General Dynamics might then be forced to halt work on the ships. The company is a major defense contractor whose fortunes are closely monitored by the Government. It is building the F-15 fighter for the Air Force and is producing nuclear

power mounting over the viability of the contracts with Burmah, and the management of Burmah Oil Tankers was asking for legal advice relating to the Government guarantees and subsidies.

A General Dynamics spokesman said last night: "There is absolutely no substance to any suggestion that any officer of General Dynamics sold stock on the basis of inside information that problems existed in the L.N.G. [liquefied natural gas] tanker program. The company has no indication of any kind that the S.E.C. proposes to investigate such officers' stock transactions."

Internal corporate documents from Burmah and confidential memoranda obtained by The New York Times pertaining to Burmah's situation show that serious questions over the legality of the guarantees and subsidies were raised by lawyers 11 months ago.

One memorandum, prepared by the firm of Kurrus & Jacobi, says: "The continued involvement of those companies in the ship construction contracts will create a cloud on the title of the vessels and could subject them to forfeiture to the United States." Some \$476 million is involved in these contracts alone.

The memorandum, dated Sept. 16, 1975, said the financing arrangements "present some extremely perilous legal problems for Burmah." It suggested that "forfeiture of the vessels to the United States would obviously have devastating consequences."

Court Precedents Cited

The memorandum also suggested that no remedy existed for ships already under construction and backed by Government guarantees and subsidies that had been fraudulently obtained, because court precedents affirm that a ship falls under the jurisdiction of the Shipping Act as soon as its keel is laid or a major hull section is built if the guarantees were previously applied for.

Other documents obtained by The Times indicate that officials of the Maritime Administration may have been aware that violators of Federal law might have been committed in connection with the Burmah guarantees and subsidies.

In a memorandum to John J. McMullen, former president of Burmah Oil Tankers, Richard Kurrus of the Washington law firm reported that he had engaged in a conversation about

a copy of his memorandum had been obtained by The Times. When asked if he wanted it read back to him, he replied: "Don't read it. I don't want to be trapped. That's too dangerous."

Mr. Kulukundis, a Greek with substantial business interests in this country, figures prominently in many of the internal Burmah documents obtained by The Times. He was ousted as the president of Burmah Oil Tankers early in 1975 after the Bank of England rescued the Burmah parent company with \$650 million in loan guarantees following the disclosure of massive losses by the American tanker subsidiary.

Several other officers were dismissed, including James Lundin, the chairman, and Nicholas J. Dr. Williams, the managing director. Alastair Down became the new Burmah chairman, Stanley J. Wilson was made president and Mr. McMullen was named the new president of Burmah Oil Tankers, the troubled subsidiary.

Lawsuit Never Filed

Ten months later, Mr. McMullen, himself a former official of the Maritime Administration and former chairman and president of United States Lines, was ousted in another Burmah upheaval after he had recommended lawsuits against Mr. Kulukundis and several other individuals allegedly involved in self-dealing.

A confidential memorandum from another Washington law firm, Seymour & Patton, to Mr. McMullen prior to his dismissal related that Mr. Kulukundis had financial interests in at least two companies that had dealings with Burmah Oil Tankers while Mr. Kulukundis was president of the Burmah concern.

Mr. McMullen asked Seymour & Patton to draw up a lawsuit against Mr. Kulukundis last November. It was never filed and Mr. McMullen was dismissed in December by officers of the parent company in London. Last month, he received a \$1 million settlement from Burmah after complex negotiations over his sudden termination.

Reached by telephone yesterday at his New York office, Mr. McMullen declined to comment, although he indicated that he felt Burmah was being victimized by forces outside the company. He did not deny the principal details of his financial settlement with the company.

The S.E.C. is looking into the circumstances of Mr. McMullen's

the Government. It is funding the Washington law firm reported that he had en- gaged in a conversation about the F-4 fighter for the Air Force and is producing nuclear reactors for the Navy. It has been suggested that the firm might produce military aircraft for the countries of the North Atlantic Treaty Organization and for Iran.

A spokesman for General Dynamics, when asked about the situation, said, "We are in contact with Burmah and we know as much as they know. We are totally unaware of anything of that nature involving the XI insurance."

Mr. Kurnus reported that he met with Mr. Blackwell for lunch later the same day and Mr. Blackwell said he felt that the J. Kukulundis, an earlier president of Burmah Oil Tankers, "may have acted improperly and perhaps even im-

properly with the company. The S.E.C. is looking into the circumstances of Mr. McMullen's dismissal and the subsequent cash settlement to determine what relationship, if any, they might have to any potential disclosure of Burmah's internal difficulties. The commission has asked White & Case, which represented Mr. McMullen in the negotiations, and Simpson, Thacher & Bartlett, which represented Burmah, for transcripts of the mediation proceedings relating to the \$1 million settlement.

Legal Advice Sought

In Washington the S.E.C. is investigating to determine whether American depository receipts for Burmah shares, which trade in the over-the-counter market, should be permitted to continue trading in light of the possibility of inadequate corporate disclosure.

The S.E.C. is also examining trading in General Dynamics shares by officers of the company. In the last eight months four key executives, including the corporation's chairman and the head of the Quincy Shipbuilding Division, have sold some \$7.2 million in stock—most of their holdings.

During this period, doubts

properly in one dealer or another. Mr. Kurnus quoted Mr. Blackwell as saying that he was aware that problems had arisen over the Title XI financing and that "everyone recognized" that the formal arrangement approved by the Maritime Administration "was based on friction."

Asked about this, Mr. Blackwell acknowledged he had met with Mr. Kurnus on May 9, not May 8, 1975, and that they had discussed Burmah's problems. However, he flatly denied that he ever said that the financing arrangements had been "based on friction."

Mr. Kurnus expressed shock yesterday when informed that

'Difference of Opinion'

The two law firms, both among the most prominent in the country, are understood to have declined within recent days to agree to the S.E.C.'s requests. "We had a difference of opinion and we settled it like gentlemen," Mr. McMullen said yesterday.

The transcript is understood to contain numerous damaging statements concerning Burmah's internal affairs as well as its dealings with individuals outside the company, including the unnamed Indonesians in general.

Another document, a "privileged attorney's work product" from Thomas E. Patton of Seymour & Patton, describes an interview with Mr. Williams, the former Burmah managing director, on Nov. 10 of last year at Broome Manor in the London suburb of Swindon.

The report of the interview, which took place nine months after Mr. Williams was dismissed, says the former Burmah managing director admitted that some Burmah subsidiaries or affiliates had been set up in Indonesia as conduits for payoffs to officials.

'Nominee' Concerns Used

The report says Mr. Williams "noted that in that part of the world the only way to do business was to use nominee companies to give people like the generals some money." One of these companies, Astrolina del Mar, Mr. Williams reportedly said, "was simply the nominee whereby Indonesian officials got money."

The memorandum deals extensively with the activities of Mr. Kukulundis when he was president of the tanker subsidiary and mentions that he "had some relations with Pertamina before he joined Burmah." Pertamina is the English word for the Indonesian state oil company.

This is the entity that would be involved in the sale of Indonesian liquefied natural gas to the Japanese utility companies. According to this arrangement, the gas would be carried on some of the ships now being built by General Dynamics at the Quincy shipyards.

Representatives Les Aspin, the Wisconsin Democrat, has raised questions about the Government backing of the shipbuilding contracts both on the basis of "serious questions" regarding the citizenship of the companies and because the ships, once completed, will not be used in any trade with the United States.

HIGH BIDS AROUSE OFFSHORE HOPES

Continued From Page 51

these tracts totaling \$349 million.

Al Anton, oil expert for Carl H. Worthheimer & Company, suggested that the big question was whether Exxon had special knowledge as a result of its wide studies. He pointed out that the Atlantic offshore area has never had any exploratory drilling.

Exxon has done considerable seismic and other geological work in the area. Many of the tracts that Exxon bid on were in the more distant deep-water part of the overall area offered in the sale.

Each oil company does its own geological analysis, although sometimes it is based on information gathered in common—such as that from a drill ship that errand rock cores from the Mid-Atlantic area earlier this year. Various companies' assessments of value can differ widely.

The oil companies are highly secretive about their information. However, there have been reports that the geologic work indicates that the Baltimore Canyon, as geologists call the Mid-Atlantic area, has few major faults where oil might accumulate but that some of these faults are very big. This means that there is oil there could be a lot of it. Or there could be a big fault with no oil.

John Lichtblau of the Petroleum Industry Research Foundation, suggested that, even if the maximum amount of oil estimated by the Interior Department was discovered, it would not solve the nation's energy shortfall.

The Interior Department has said the Atlantic offshore area has the potential for 400 million to 1.4 billion barrels of oil. The upper level of this range would mean maximum production of about 250,000 barrel a day some time in the early 1980's.

"Nonetheless every barrel counts for the nation, and gas in particular would be of particular advantage to the Eastern states," Mr. Lichtblau said.

Joseph Tovey, vice president of Shields, Model & Roland Inc., said that the bidding for leases reflected in part an optimistic outlook for potential quantity and prices in the future.

DETAILS SETTLED FOR ARAMCO DEAL

BEIRUT, Lebanon, Aug. 18 (AP)—Technical details of an agreement for the 100 percent takeover of the Arabian American Oil Company by Saudi Arabia were worked out at secret weeklong talks that ended Aug. 11 in Geneva, the Middle East Economic Survey said today. The news weekly, which reports authoritatively on oil affairs, said a further meeting between Saudi and Aramco officials had been scheduled for early September.

Saudi Ahmed Zaki Yamani, Saudi Arabia's oil minister, led the Saudi delegation at the meeting with representatives of the four American owners of Aramco—the Standard Oil Company of California, Texaco Inc., the Exxon Corporation and the Mobil Corporation.

On Jan. 1, 1973, Saudi Arabia acquired 25 percent of the company, and the next year it increased the holding to 60 percent. A full takeover was announced in December 1974, but negotiations on the terms have dragged on.

BEST COPY AVAILABLE

A-500

EXHIBIT TO KURIMAI AFFIDAVIT - COPIES OF
LETTERS APPEARING IN THE CONGRESSIONAL
RECORD ON MAY 25, 1976

(Reproduced herein at pages A-489 - A-491)

Defendants.

AFFIDAVIT

5. On Sep-ember 24, 1976 and September 27, 1976, pursuant to the Order of Investigation, the Commission, by an officer of the Commission, issued subpoenas duces tecum to various individuals and corporations.

6. The investigation referred to in paragraph 2 above is continuing.

Further affiant saith not.

George A. Fitzsimmons
Secretary for the
SECURITIES AND EXCHANGE COMMISSION
500 North Capitol Street
Washington, D.C. 20549
Telephone: (202) 755-1160

Subscribed and sworn to before me
this 5th day of November, 1976

Christine K. Kelley
Notary Public, D.C.

My Commission expires 12-14-78

AFFIDAVIT OF RICHARD B. DANNENBERG, ESQ.,
FOR RELATOR, IN OPPOSITION TO MOTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, by
Dorothy S. Greenberg, for herself
as well as for the United States
of America,

Plaintiff,

-v-

THE BURMAH OIL COMPANY LIMITED, et al.,

Defendants.

76 Civ. 4351 (WK)

ANSWERING AFFIDAVIT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

RICHARD B. DANNENBERG, being duly sworn, deposes and says:

1. I am a member of the firm of Lipper, Lowey & Dannenberg (the "Lipper Firm") which, with the firm of Newman, Shook & Newman, P. C. of Dallas, Texas are the attorneys for the Relator, Dorothy S. Greenberg, in this action brought under the False Claims Act, 31 U.S.C. §231, et seq. for deliberate violations of and under the United States "Shipping Act 1916", as amended, 46 U.S.C. §801, et seq., and for deliberate violations as of and under the Merchant Marine Act of 1936, as amended (46 U.S.C. §§1101, et seq.). I make this affidavit in opposition to the motion of the United States of America, not a defendant, who has "appeared specially" to dismiss this action for lack of jurisdiction over the subject matter, pursuant to Section 232(C) of the False Claims Act (31 U.S.C. §232(C)). The Notice of Motion dated December 1, 1976 was served on the Lipper Firm on

December 2, 1976. I also make this affidavit in opposition to the two page notice of motion dated and served December 6, 1976 by all the named defendants, except two, who similarly move to dismiss the action for lack of jurisdiction over the subject matter. Relator had informally extended the named defendants' time to move or answer the complaint to December 6th.

2. This action is brought on behalf of the United States of America (the "Government") to recover \$79 million heretofore paid out, induced by and as a result of alleged false applications for financing for ship construction purposes under Titles V and XI of the Merchant Marine Act of 1936 (46 U.S.C. §§1151-1161; and §§1271-1276), (hereinafter referred to respectively as C.D.S. Financing and Title XI Financing or Title XI Guarantees); to nullify commitments made pursuant to those applications; and to prevent the Government from being committed to pay conditionally or otherwise substantially more.

3. This action was filed in this Court on September 30, 1976. That day Relator served on the office of Robert B. Fiske, Jr., United States Attorney for the Southern District of New York, a copy of the complaint and mailed registered mail to the Attorney General of the United States at Washington, D.C. (i) a copy of the complaint, and (ii) copies of each of the ten documents, as more particularly listed on a Schedule A to the complaint, entitled "Statement of Disclosures on Behalf of Dorothy S. Greenberg Pursuant to Section 232(C) of Title 31 of the United States Code". The complaint is annexed hereto as Exhibit 1. Schedule A annexed to the complaint is annexed to this affidavit as Exhibit 2.

4. The basis for the Government's motion to dismiss is predicated on its alleged claim that the substantive information submitted to the Government by Relator was already in its possession, the Government relying upon that portion of Subparagraph (C) of Section 232 which states:

"The Court shall have no jurisdiction to proceed . . . whenever it shall be made to appear that such suit was based upon evidence or information in the possession of the United States, or any agency, officer or employee thereof at the time such suit was brought"

In its moving papers the Government concedes that prior to September 30, 1976, it did not have in its possession the document listed at Item 2 on Schedule A, namely "A memorandum dated May 12, 1975 from Richard W. Kurrus to John J. McMullen . . ." and did not have four of the other documents listed on Schedule A at Items 6, 7, 8(a) and 8(b) thereof. Annexed hereto as Exhibit 3, is the memorandum of May 12, 1975, hereinafter referred to as the "Kurrus Memorandum". Annexed as Exhibit 4, is Item 3 to Schedule A, a Memorandum dated August 21, 1975 also written by Richard Kurrus. Relator is prepared to deliver to the Court, if it so requests, each of the other documents given to the Attorney General of the United States and listed on Schedule A. These documents were first received by the Attorney General on October 4, 1976.

The Government concedes that prior thereto, with the exception of two newspaper articles which are within the 66 page compilation of news releases (Item 6 on Schedule A), the Department of Justice (the Attorney General) never before had in its possession the ten documents. The Government does claim, however, that five of the documents, to wit Items 1, 3, 4 and 5(a) and 5(b), while not in possession of the Executive Branch of the Government, were in possession of the Committee on Government Operations of the House of Representatives prior to September 30, 1976, and that also Items 5(a) and 5(b) were in the possession of the Maritime

Administration of the United States Department of Commerce ("MarAd"). As set forth at page 23 of the accompanying Memorandum of Law on behalf of Relator, the legislative history makes it evident that the fact that information may be in possession of Congress was not intended to bar a qui tam action.

Equally clear, also, is the fact that prior to September 30, 1976 the Government, i.e. the Executive Branch, the Legislative Branch and the Judicial Branch, did not have Items 2, 6 (with two minor exceptions), 7, 8(a) and 8(b). Nor had the information and documents been assembled.

5. The Government agency involved in the financing, which is the subject of the Relator's complaint, is MarAd. The Government in making its motion to dismiss relies principally on an affidavit of Samuel B. Nemirow, General Counsel of MarAd, who in his affidavit sworn to November 26, 1976, concedes at Paragraphs 35 and 36 thereof that Items 1, 2, 3, 7, 8(a) and 8(b) of Schedule A to the complaint submitted by the Relator to the Department of Justice had never before been received by MarAd. As to Item 4 of Schedule A, a 63 page memorandum of law, Mr. Nemirow concedes never having had a copy of that document, although he claims to have been shown a copy at some time "in or about September 1975".

Annexed hereto as Exhibit 5A is a copy of letter dated October 7, 1976 (or October 8, 1976) from Richard L. Thornburgh, Assistant Attorney General to Congressman Aspin. That letter establishes that neither the Department of Justice, nor the S.E.C., nor the General Accounting Office had the information submitted on September 30, 1976 by Relator.

Annexed hereto as Exhibit 5B is correspondence dated October 2, 1976 from Congressman Les Aspin of the House of Representatives to the Honorable Elliot Richardson, Secretary of the Department of Commerce, and Secretary Richardson's response of November 17th discussing certain of the factual issues presented

by this lawsuit, and particularly pending applications before MarAd on behalf of the defendants The Burmah Oil Company limited and General Dynamics Corporation, et al. At page 4 thereof Commerce Secretary Richardson refers to this litigation as follows:

"As you may be aware, the forfeiture contention is currently the subject of civil litigation in federal district court in New York. In this civil action, most of the documents which have been the basis for media reports, such as The New York Times article of August 19, have been brought to light and as a consequence, MarAd has recently been able to review these documents -- most of them for the first time. Nothing in them, including the "legal memorandum" by Richard Kurrus, would lead MarAd to change its belief that the LNG vessels are not subject to forfeiture."

That letter further states that the Commerce Department intends to take immediate action with respect to the pending applications referred to by Congressman Aspin prior to the "incoming administration" taking over. Further, Secretary Richardson states that the General Accounting Office has heretofore undertaken a review of the matter and to date has yet to disapprove of MarAd's course of action.

There is no affidavit from the General Accounting Office in the Government's moving papers. That agency never had presented to it or in its possession any of the documents provided by Relator to the Attorney General on September 30, 1976. Otherwise they would have been presented presumably to the Department of Justice, but they were not. See Exhibit 5A annexed hereto.

6. As further evidence that the Government did not have all the information and documents assembled by Relator prior to September 30, 1976, and of the value of Relator's action, is the

fact that Relator's counsel, the Lipper Firm, received a telephone request on October 18, 1976 from Gary N. Siendick of the Office of Branch Chief of Division of Enforcement of the Securities and Exchange Commission (Tel. #(202)-755-4110) who spoke with Burton L. Knapp of the Lipper Firm and requested the Lipper Firm to forward to Mr. Siendick copies of all the documents furnished to the Attorney General, listed on Schedule A to the complaint. On October 19, 1976 your deponent passed that request on to Assistant Attorney General Ridge Loux (Tel. #(202)-739-3503) who had previously in early October advised me that he would be the Assistant Attorney General in charge of the action.

7. As the False Claims Act provides, the Government has sixty days to make a determination as to whether it wishes to take over prosecution of this qui tam action. That time expired on November 30, 1976. Not having heard from the Government, I, on Monday, November 29, 1976, called Mr. Loux to determine what position the Government was going to take with respect to the litigation inasmuch as the sixty day period under the False Claims Act was about to expire. He advised me to communicate with Assistant United States Attorney Schechter, office of the United States Attorney in the Southern District of New York. I called Mr. Schechter on November 29. Mr. Schechter advised me that he was about to serve motion papers returnable December 10th to dismiss for lack of subject matter jurisdiction. I requested that he make the matter returnable in January as I was leaving for a vacation. He indicated to me that under no circumstances could he grant any extensions of time; that it was essential that the motion be returnable December 10th because of pending applications

before MarAd which were to be approved once this action is disposed of. It thus appears that the United States Attorney, moving to dismiss this action for lack of subject matter jurisdiction, has no intention to cause this action or a similar action to proceed or be prosecuted on behalf of the Government.

8. While the Government's moving papers carefully avoids discussing the merits of Relator's complaint, the Government through the Nemirow affidavit seeks to create the erroneous impression, that the financing approved by MarAd, and about to be approved, which are the subject of this action has the imprimatur and support of the Government because it encourages the "growth and modernization of the United States Merchant Marine" (Nemirow affidavit ¶5; Government memorandum pp.2-3). If in fact a foreign company controls the ships receiving United States subsidies, the legislative purpose of the statute as claimed by the Government will not be fulfilled. Further, if in fact false applications, certifications and affidavits were submitted to the Government, which induced it to grant the financing, neither this Court nor the Attorney General may refuse to enforce the law on the grounds that the "ends" justify the "means".

THE ALLEGED FALSE APPLICATIONS
SUBMITTED TO MARAD

9. The information hereinafter set forth in this affidavit is based upon and taken from documents presently in the possession of your deponent. Most of these documents come from the files of MarAd itself. An analysis of these documents leads your deponent to wonder why it took until September 30, 1976 for the facts to be brought to the attention of the Attorney General of the United States, as Relator has done by the filing of the instant action.

10. Annexed hereto are examples of the affidavits of citizenship and certain of the executed certifications to certain of the applications, for C.D.S. Financing and Title XI Financing which Relator claims were false and other materially important documents as follows:

Exhibit 6 - affidavit of citizenship by defendant John C. Bullitt ("Bullitt") sworn to August 8, 1973 submitted to MarAd in connection with the initial applications on behalf of the defendants Cherokee I Shipping Corporation through Cherokee IV Shipping Corporation (the "Cherokee Companies")

Exhibit 7 - a certification executed by Bullitt in connection with and annexed to the initial applications of each of the Cherokee Companies

Exhibit 8 - Letter from defendant General Dynamics Corporation under date of August 23, 1972 to one of the three Cryogenic Companies, accepted and approved by Durbin, committing to the execution of a vessel construction contract.

Exhibit 9 - a certification executed by Durbin in connection with and annexed to the pre-September 15, 1972 applications of each of the Cryogenic Companies.

Exhibit 10- The unconditional guarantee of defendant Burmah Oil Company Limited ("Burmah") to MarAd under date of September 28, 1972.

11. The applications for C.D.S. Financing were first filed on July 14, 1972 and the applications amended on August 31, September 15, and September 20, 1972. On September 22, 1972 MarAd approved C.D.S. Financing and, on the same day, conditionally committed itself to granting Title XI guarantees provided that a number of conditions were met. On September 28, 1972, MarAd gave its initial approval to the time charter arrangements to a Burmah subsidiary. On August 9, 1974, MarAd finally approved the issuance of Title XI guarantees. Certain of the foregoing approvals were recommended by Robert J. Blackwell, Assistant Secretary of Commerce for Maritime Affairs who is involved in the alleged subterfuge (See Exhibit 3 annexed).

12. Under date of September 28, 1972 Burmah had sent to MarAd its unconditional guarantee with respect to the Title XI Financing, stating:

"We understand that, in order to enable you to give adequate review to the documents underlying said applications (including the proposed forms of demise charter and time charter), it may be necessary to delay the execution of the three construction contracts between the applicants and the Builder.

Such being the case and in order to induce a prompt execution of the construction contracts, the undersigned hereby unconditionally and irrevocably guarantees that:

(A) BOI will, regardless of circumstances, pay charter hire sufficient to meet periodic Title XI insured mortgage payments, as well as applicable Title XI insurance premiums, so long as the applicable vessel shall not be lost, requisitioned for title, forfeited, captured or seized, pay an amount sufficient to redeem in full the unpaid principal of and interest and premium (if any) on, the bonds secured by, and any other sums due under, such mortgage, and

(B) If BOI shall default in any obligation, duty or undertaking incumbent upon it under the time charter of any document related thereto, the undersigned will duly and punctually perform such obligation, duty or undertaking." (Exhibit 10 annexed)

BOI, as referred to in the letter, is Burmah's wholly owned subsidiary, the defendant Burmah Oil Inc.

13. Previously, in a letter under date of September 15, 1972, Theodore A. Ulrich of the firm of Cadwalader, Wickersham & Taft, Esq. advising that that firm represented the Cryogenic Companies as well as the defendants Citicorp Leasing Inc. and General American Transportation, outlined the entire transaction to Mr. Edward Fitzgerald of the Division of Mortgage Insurance Contracts of MarAd. In the course thereof he stated:

"To finance the progress payments required to be made under the Construction Contract, the Owner Trustee and the Company, from time to time, will borrow on an interim basis the needed funds from the Bank under the Title XI Loan Agreement which will be insured under Title XI of the Act, and the Interim Loan Agreement which will not be so insured but will be guaranteed by Burmah Oil Tankers, Ltd. and Burmah Oil Company, Ltd."

14. Under date of September 28, 1972 Roy H. Yowell, Acting Chief, Office of Subsidy Administration of MarAd forwarded to the Assistant Secretary of Commerce for Maritime Affairs, MarAd Form M521, for the purpose of recommending the Title XI Financing and stated

Citizenship

"The United States citizenship of Cryogenics Energy Transport, Inc., Liquegas Transport, Inc., LNG Transport, Inc. (Three Companies), Summit, Wilmington Trust Company, Citicorp Leasing Inc. and General American Transportation Corporation has been satisfactorily established during the past year. In addition, the Lender/Mortgagee/Trustee has not been determined and therefore its citizenship is not yet established. Prior to the first closing the Lender/Mortgagee/Trustee will be required to submit satisfactory evidence of United States citizenship. The Three Companies, Wilmington Trust Company, Citicorp Leasing Inc. and General American Transportation Corporation and the Lender/Mortgagee/Trustee will be required to submit evidence of continuing citizenship at each additional closing."
(Emphasis added)

15. The initial applications for financing of July 14, 1972 and August 31, 1972 were executed on behalf of the Cryogenic Companies by Durbin who certified that the applicants were United States citizens and, upon information and belief, filed affidavits of citizenship referred to above. The amended applications for financing filed on or after September 15, 1972, were executed by the defendant Joseph J. Cuneo or by attorneys, and the affidavits of citizenship were filed by attorneys who were members of either the law firm of Cadwalader, Wickersham & Taft or the law firm of Richards, Layton & Finger, which certifications and affidavits were in the same form and content as those affidavits and certifications previously referred to. Except for those affidavits of citizenship, upon information and belief executed by Durbin (who as hereinafter set forth, was associated with the Burmah complex of companies), the 1972 applications and affidavits of citizenship all were executed substantially by persons who were not in the shipping business but who principally were practicing attorneys. In other words, the corporations which were applicants for the financing were dummy corporations, acting upon the instructions of Burmah and its then principal executive officer, the defendant Elias J. Kulukundis.

16. Upon information and belief, the applications and information in MarAd's possession prior to September 30, 1972 disclosed in addition the following:

1. Under date of May 24, 1972 Public Service Electric and Gas Company of New Jersey and Algonquin Gas Transmission (collectively "Escogas") entered into a Purchase Agreement dated May 24, 1972 with Societe Nationale Sonatrach, an Algerian company, for the purchase of an aggregate of one thousand two hundred billion thermies of Liquid Natural Gas ("LNG") over a period of twenty-two years.

2. Under date of June 26, 1972 defendant Burmah Oil Tankers Limited entered into a Transportation Agreement with Escogas for delivery of LNG from Algeria to the eastern coast of the United States.
- 3(a) Under date of July 12, 1972 the Cryogenic Companies were each incorporated under the laws of Delaware.
- (b) At August 14, 1972 the office of each of these corporations was at 1345 Avenue of the Americas, New York, N. Y.
4. Initially from July 14, 1972 and until at least September 12, 1972 all of the common stock of the Cryogenic Companies was owned by Durbin.
5. Initially and until September 13, 1972 the officers and directors of the Cryogenic Companies were defendant:

Durbin	- Director, President
Hans H. Angermueller	- Director, Secretary
Alvin E. Friedman	- Director, Treasurer
6. Durbin on August 14, 1972, was:
 - (i) President and a Director of defendant Burmah Oil, Inc. and had held that position since November 1968; (ii) Chairman of the Board of defendant Burmah Oil Tankers, Limited, and had held that position since November 1970; (iii) President of Burmah Oil Development, Inc. and of Flexibox V.S., Inc., wholly owned subsidiaries of Burmah Oil, Inc. and Chairman of the Board of Edwin Cooper, Inc., a wholly owned subsidiary of Burmah Oil Inc.
- 7(a) On August 14, 1972 Hans H. Angermueller ("Angermueller") was, and had been for five years, a partner in the New York City law firm of Shearman & Sterling.
- (b) On August 14, 1972 Angermueller held an option to purchase any and all of Durbin's stock of the Cryogenic Companies at cost.
- (c) On August 14, 1972, Alvin H. Friedman ("Friedman") was a partner in the investment banking firm of Kuhn, Loeb & Co.
- (d) On August 14, 1972 and for several months prior thereto Kuhn, Loeb & Co. had been acting as investment bankers for defendant The Burmah Oil Company Limited and its subsidiaries and affiliates.

- (e) On August 14, 1972, Friedman was a director of defendant Burmah Oil, Inc.
- (f) In 1972 Shearman & Sterling had been retained by defendants Burmah Oil Company Limited, et al to represent them in connection with ship construction financing.

8. On September 12, 1972 the following persons, all partners in the law firm of Richards, Layton & Finger, Dupont Building, Wilmington, Delaware, attorneys for the Wilmington Trust Company of Delaware, became the officers and directors of the Cryogenic Companies:

Rodney M. Layton	- President, Director
Barbara A. McKee	- Secretary, Director
Thomas P. Sweeney	- Treasurer, Director

9. Burmah had committed the Cryogenic Companies to enter into construction contracts with General Dynamics Corporation and had agreed to underwrite or guarantee, unconditionally the transaction.

17. One can only conjecture as to how MarAd concluded on September 28, 1972 that Burmah was not in control of the Cryogenic Companies and that the United States citizenship of the Cryogenic Companies had been satisfactorily established, in view of all of the foregoing. Relator believes that if this action is permitted to proceed, it will be established that the applications were false and the approved financing based on a subterfuge, as alleged by Relator's Complaint.

18. The damages to the Government are substantial. It has already paid out some \$79 million, according to the Government's papers. The construction cost for the three vessels which are near completion is claimed to be \$280 million. Approximately \$150 million of the foregoing is allegedly guaranteed under Title XI Financing. The United States has guaranteed the prompt payment in full of interest and unpaid principal in the event of default in payment of funds borrowed to finance the construction. (Nemirow Affidavit ¶¶ 6 and 18).

If Burmah does not meet the interest payments and other carrying charges of the loans as well as the principal thereof when they become due, the United States Government will likely have to make those payments. This is not a remote possibility inasmuch as Burmah today is not financially a healthy company. Its financial plight is referred to in a footnote on the first page of Exhibit 14 of the moving papers. See also Exhibit 11 annexed, a financial statement for the six months ended June 30, 1976.

19. Annexed to the accompanying Memorandum of Law is an Appendix, which describes the defendants and their relationship to the transactions, as alleged in the complaint, which information is also based upon documents in the possession of your deponent.

Conclusion

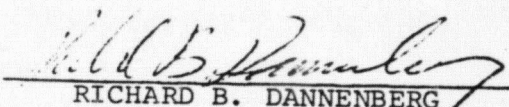
20. The Relator's qui tam complaint for the first time assembled substantial evidence for the Government and placed the false applications and claims for financing under the Merchant Marine Act of 1936 in their proper perspective. Concededly the Government, prior to September 30, 1976, did not have all the evidence, all the information and the documents furnished by Relator. No prosecutorial division of the Executive Branch had undertaken any meaningful action. No complaints had been filed. No indictments brought. Although the applications on behalf of Burmah were first filed with MarAd in 1972 and 1973, and although the Government claims MarAd was put on some notice in 1975 of the possibility of false claims having been filed with it, no proceeding or investigation had been commenced.

Presumably the legislative branch of the Government has been frustrated in its recent attempts to urge the Government to move. Now that Relator has done so, the Government, under the facts and circumstances in this action, should not be permitted to terminate on a technicality Relator's action.

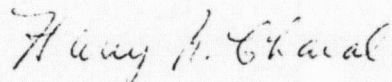
Further, it is clear from the Government papers that jurisdiction rests under the statute in view of the fact that the Government has not established that the suit "was based upon evidence or information in possession of the United States, or any agency, officer or employee thereof" whose knowledge might properly be imputed to the Government.

Relator has provided a valuable service and has provided valuable information to the Government.

WHEREFORE, it is respectfully prayed that the motions of the Government and the defendants be denied in all respects.


RICHARD B. DANNENBERG

Sworn to before me this
8th day of December, 1976.



HARRY P. CHAHAL
COUNTY CLERK
Certified to be the County Clerk of New York County
Commission Expires June 1, 1977

A-518

EXHIBIT 1 TO DANNENBERG AFFIDAVIT - COMPLAINT

(Reproduced herein at pages A-4 - A-27)

A-519

EXHIBIT 2 TO DANNENBERG AFFIDAVIT -
SCHEDULE A TO COMPLAINT

(Reproduced herein at pages A-28 - A-29)

EXHIBIT 3 TO DANNENBERG AFFIDAVIT - MEMORANDUM DATED
MAY 12, 1975 FROM RICHARD W. KURRUS TO JOHN J. McMULLEN

(Reproduced herein at pages A-47 - A-49)

A-521

EXHIBIT 4 TO DANNENBERG AFFIDAVIT - CONFIDENTIAL MEMORANDUM DATED AUGUST 21, 1975 FROM RICHARD W. KURRUS TO JOHN J. McMULLEN

(Reproduced herein at pages A-50 - A-54)

EXHIBIT 5A TO DANNENBERG AFFIDAVIT - LETTER DATED OCTOBER 7, 1976 (OR OCTOBER 8, 1976) FROM RICHARD L. THORNBURGH, ASSISTANT ATTORNEY GENERAL, TO CONGRESSMAN ASPIN

ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION

Department of Justice

Washington 20530

OCT 7 1976

OCT 08 1976

Honorable Les Aspin
House of Representatives
Washington, D. C. 20515

Dear Congressman Aspin:

This will acknowledge receipt of your letter dated August 19, 1976 with enclosures concerning the legality of application by the Burmah Oil Company for Title XI mortgage insurance guarantees for the construction of 8 LNG tankers at General Dynamics, Quincy, Massachusetts facility.

You specifically mention and request investigation of possible fraud in the submission of affidavits of corporate citizenship to the Federal Maritime Administration in order to obtain the Title XI guarantees. In this connection we understand both the Administration and the Securities and Exchange Commission are inquiring into this matter. I am, therefore, communicating with both of these agencies requesting all pertinent information. Upon receipt of that data, a determination will be made as to what further action would be appropriate by the Department.

We understand that the General Accounting Office has conducted an inquiry into this matter, and we assume any evidence of possible violations of Federal criminal law will be referred to the Department of Justice.

Sincerely,

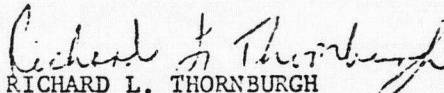

RICHARD L. THORNBURGH
Assistant Attorney General
Criminal Division



EXHIBIT 5B TO DANNENBERG AFFIDAVIT - LETTER DATED OCTOBER 2, 1976 FROM CONGRESSMAN LES ASPIN TO HON. ELLIOT RICHARDSON, SECRETARY OF DEPARTMENT OF COMMERCE

Congress of the United States

House of Representatives

Washington, D.C. 20515

210 DOWNS STREET
JANUARY, WASHINGTON
205-793-7016

October 2, 1976

The Honorable Elliot Richardson
Chairman, The President's Task Force on
Questionable Corporate Payments Abroad, and
Secretary, Department of Commerce
Washington, D.C.

Dear Mr. Richardson:

I am writing to you in your capacities as Secretary of Commerce, having responsibility over the Maritime Administration (MarAd), and as Chairman of President Ford's Task Force on Questionable Corporate Payments Abroad. I am concerned about press allegations of possible bribes and payoffs in connection with this transaction.

By way of background, I have read that in late 1973 Pertamina, the state-owned Indonesian oil company, agreed to sell to public utilities in Japan large amounts of LNG over a twenty-year period. Burmah East Shipping Corporation (Burmah East), a majority-owned (about 57 1/2 percent) third-tier subsidiary of Burmah, entered into an agreement with Pertamina to transport the LNG. In turn, Burmah arranged for the construction of five LNG tankers, and more recently for two more, to be built by General Dynamics Corporation. The financing of these vessels, costing in the neighborhood of \$850 million, was to be accomplished with the assistance of title XI insurance through MarAd. MarAd issued non-binding preliminary commitments with respect to the financing on the first five of these vessels.

In order to facilitate meeting its Indonesia-to-Japan shipping obligations, Burmah established a mystifying structure of corporate relationships and charter arrangements. As part of this structure, through new companies established under United States law, specifically the Cherokee Companies and their parent Energy Transportation Corporation, construction contracts were entered into with General

Dynamics and applications for title XI insurance were filed with MarAd. However, Burmah remained the key party in this structure, having general overall control with respect to the Cherokee companies, Energy Transportation Corporation, and other related participants.

It has been pointed out that neither Burmah nor its subsidiary Burmast East would meet the applicable definition of "citizen," which a company is required to meet in order to apply for MarAd ship mortgage insurance or hold title to American-flag vessels, and control by Burmah would vitiate any colorable claim by companies nominally established under United States law that they meet this test on their own.

I first questioned the citizenship matter in a March 3, 1976 letter to MarAd Administrator Robert J. Blackwell. Mr. Blackwell's "response," dated April 21, 1976, in fact wholly failed to come to grips with the "control" test that is crucial to the question of citizenship. This I pointed out in a letter dated May 25, 1976 to Congressman Jack Brooks, Chairman of the Committee on Government Operations, requesting that the Committee staff inquire into the matter.

I understand that the Committee staff indeed undertook an inquiry and in fact met with MarAd staff a number of times in order to get necessary information. Yet, Chairman Brooks found it necessary, on August 3, 1976, to write directly to Administrator Blackwell again and ask him for further information, specifically what would the liability of the United States be after title XI ship mortgage guarantees have been made, if subsequent inquiry reveals that the citizenship requirements have in fact been violated. In addition, Chairman Brooks asked whether MarAd has "any evidence" of foreign control of the U.S. companies or ships involved at any time, and, if so, what the United States liability would be.

Moreover, on August 2, 1976 Chairman Brooks requested GAO to review the operation and administration of the title XI program, giving special emphasis to whether all applicants receiving coverage under the program actually qualify. Meanwhile, On

October 2, 1976

August 19, 1976 The New York Times reported that Marad, the SEC, and "at least one Congressional committee" were investigating whether Burmah had illegally received commitments for Marad, financing for vessel construction. The article quoted a confidential memorandum prepared for Burmah by the firm of Kurrus & Jacobi as stating flatly that the affidavits of corporate citizenship filed with Marad in the applications for title XI guarantees "were fraudulent." The Times articles also said that Mr. Blackwell in a telephone interview with the reporter, stated that his agency "has no information to indicate that there was fraud of any type or wrongdoing" in the Burmah application.

Bearing on Marad's awareness of the citizenship problem or its possession of any information, the August 19 Times article refers to a memorandum of Richard M. Kurrus, Esq. reporting on meeting with Mr. Blackwell on May 8, 1976. This memorandum is quoted as reporting that Mr. Blackwell said he felt that Mr. Elias Kulikundis (head of Burmah's tanker operation at the time the transaction was entered into) "may have acted imprudently and perhaps even improperly in the deals he set up." It also indicated that Mr. Blackwell realized that the formal arrangement, already preliminarily approved by Marad "was based on fiction."

On August 19, 1976, the day The New York Times printed its article, I wrote to Attorney General Edward Levi, requesting that the Department of Justice undertake an immediate investigation of possible fraud in connection with this case. This highlights the fact that issues of possible criminal conduct are present, as well as various civil penalties, including forfeiture of the vessels in question. It is my understanding that the case has indeed been referred to the Justice Department's Criminal Division.

Now, after well over a year of sub rosa debate about the citizenship-control issue, and six months after the issue has been publicly raised in Congress, an amended application has been filed at Marad. This document indicates that General Dynamics has taken some kind of "equity interest" in the vessels. The parties apparently believe that this last minute intrusion of a new United States "owner" may help meet the citizenship requirements of United States law. On this, the Kurrus memorandum, as quoted in the Times, seems to have been unequivocal to the effect that the

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transaction cannot be saved, and penalties, including forfeiture may still be invoked. If this is so, the question put by Chairman Brooks is particularly pertinent -- what would the United States liability be under a title XI guarantee?

This amended application is a brief document; the draftsman would seem to think that MarAd can decide it easily. Rumor has it that MarAd is being pushed to act quickly, in spite of the expressed congressional concern. General Dynamics, for example, has publicly announced that it expects approval by the year's end.

It may be imprudent if not unlawful for MarAd to approve the application now. In any event, from the facts that I have set forth in my letter, I think Mar Ad would agree that its highest officials have been portrayed as being deeply involved in this transaction, so that in judging the questions that have been raised they would be seen to be judging themselves. Out of fairness to MarAd officials, and in order to assure public perception of care and objective resolution of the citizenship issue along with the allegations of fraud, this cannot be permitted to happen. Accordingly, I urge that you issue a directive relieving MarAd of further decision-making authority in this case and make the necessary decisions yourself.

Let me now call your attention to another matter. You will recall that I pointed out that Burmast East, the 57-1/2 percent-owned Burmah subsidiary, entered into the original transportation agreement with Pertamina in 1973. But who owned the rest of Bur East?

This is of concern, of course, because the MarAd title XI guarantee will make it possible for Burmast East to increase its profitability on this transaction and hence the guarantee has real value to Burmast East and to those who own its stock. To be specific, Mr. Blackwell has stated that under the original charter arrangements Burmast East was slated to receive 75 percent of the profit under the transportation agreement with Pertamina. If the undisclosed owners have 42.5 percent of Burmast East, this means they would have 31.9 percent of the profit on the twenty-year contracts to employ five huge LNG tankers! This would be millions each year for two decades!

The Honorable Elliot Richardson

page 5

October 2, 1976

It seems to me incumbent upon MarAd to take care to know who reaps these kinds of benefits when financed with the aid of the title XI program, and what it is these persons may have contributed in order to merit these benefits. The SEC, in an analysis of antibribery options available to the executive branch has reportedly suggested the government cease all dealings with foreign companies that make improper payments. At the very least the Commerce Department should be able to assure the Congress and the public that its title XI guarantees are not being used to underwrite enormous fraudulent annuities to faceless persons tied to shipping here or abroad.

Remarkably, MarAd did not seem to know, or at least did not want to state, an answer to the question who owns Burmast East. So far as I know, MarAd has not shown any particular interest in this matter.

However, the press has. Respected newspapers in Japan have reported "black rumors" regarding this transaction. I am advised that "black rumors" is a term in Japanese which connotes corruption. According to these papers (copies of pertinent articles are enclosed), Burmast East was a "tunnel" company designed to receive the income from the transportation agreement and distribute huge shares of it as payoffs to various persons, namely the owners of Burmast East. Some of the theretofore undisclosed owners were reported to be East Oil Trading Company of Tokyo (five percent), Edna S.A. of 1536 Union House, Hong Kong (twenty percent), and Overseas Natural Gas of New York (ten percent). Far East Oil Trading reportedly "has many Japanese political or business leaders as promoters," and is "a company jointly invested in by leaders of Japanese political and financial worlds." Edna is said to be owned by Mr. Robin Lowe of Singapore, "a right-hand of Mr. Ibnu Sutowo," who in turn was head of Pertamina at the time this transaction was entered into. Overseas Natural Gas is said to be owned, at least in part, by Mr. Elias Kulukundis, head of Burmah's tanker operation at the time the transaction was first entered into.

Note that, assuming the correctness of the information in the Japanese press, there still would be 7.5 percent of Burmast East whose ownership is undisclosed.

October 2, 1976

The recently filed amended application for title XI benefits discloses that Burmast East has assigned its interest in the transportation agreement to Burmah Gas Transport, Ltd., "a Liberian corporation and wholly-owned subsidiary of Burmah." This assignment, on its face eliminating Burmast East, appears to have been conveniently arranged after the above allegations came to light. Left unexplained is what consideration may have been passed, or promise made, for the assignment to Burmah Gas Transport, to whom, and for what. If Burmast East was the vehicle for huge bribes, payoffs, or questionable payments, I find it hard to believe the recipients would give it all back to Burmah without some tangible expectation in return.

The Japanese press has also reported that Mr. Alistair F. Down, Chairman of Burmah, has authorized payment of a \$3 million bribe to a high Japanese shipping official or officials, and that he did this through an intermediary company, Fontas, Ltd., a Bermuda company controlled by Mr. Tongsun Park of Washington, D.C. One Japanese account said that the "high official" involved was not in shipping, but rather was either Mr. Yoshio Kodama or a Mr. T.

Lending an aura of credibility to the bribe and payoff allegations, The New York Times article of August 19, 1976 stated that "evidence also exists that pay-offs were made by Burmah subsidiaries or affiliates to obtain contracts . . . , allegedly made to Indonesian generals or other officials." The same article quoted a memorandum by another Burmah attorney reporting an interview with Mr. Nicholas Williams, formerly Burmah's managing director, and saying that Mr. Williams "admitted that some Burmah subsidiaries or affiliates had been set up in Indonesia as conduits for payments to officials." "The report says Mr. Williams 'noted in that part of the world the only way to do business was to use nominee companies to give people like the general some money.'"

In addition, Indonesia's Minister of Commerce was recently (after the allegations came to light) quoted in the Japanese press as saying he did not want to cooperate with a questionable company like Burmast East.

The New York Times on Sunday September 19, 1976 quotes General Haryono, Pertamina's new president, in apparent reference to the LNG transportation arrangements which he declined to discuss further.

The Honorable Elliot Richardson

page 7

October 2, 1976

"If I am correct, there are indications of fraud in some of the cases."

According to the Sunday Times of London, Burmah has confirmed that it had paid \$3 million to Park, but claims he was an agent unknown to them but was nominated by the Japanese to receive the money as a commission in an unrelated transaction.

The press has stated that hard evidence of some allegations of fraud does exist. In early 1976 there was an arbitration proceeding held in New York between Mr. John J. McMullen, once head of Burmah's tanker divisions, and Burmah. Four days of sworn testimony are recorded in transcript. According to the Japanese press, this transcript includes discussions of bribe activities. The New York Times has reported that the SEC has asked to see the transcript, and that the transcript "is understood to contain numerous damaging statements concerning Burmah's . . . dealings with individuals outside the company, including unnamed Indonesian generals." Copies of the transcript are in the possession of Lloyd Cutler, Esq. of Washington, D.C., who served as the arbitrator in this proceeding; the New York law firm of White & Case, which represented Mr. McMullen; the New York law firm of Simpson, Thatcher & Bartlett, which represented Burmah; the parties to the arbitration; and possibly others.

It would seem that Burmah has it within its power to furnish you a copy of the transcript in the arbitration proceeding. Even under the most recent amended application, it is clear that Burmah is the key party in the shipping transaction, and I see no reason why you should not require Burmah to provide a copy of the transcript before you act. Your scrutiny of this transcript would be, under the circumstances, an absolute minimum step toward discharging your responsibilities to the title XI program, and a most useful beginning to a complete investigation. I urge that this and other appropriate steps be taken before going ahead with this matter.

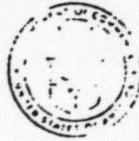
I would appreciate an early response to this letter.

Sincerely,

10/13/76
Los Angeles
Member of Congress

LA:sjt

EXHIBIT 5B TO DANNENBERG AFFIDAVIT - LETTER
DATED NOVEMBER 17, 1976 FROM SECRETARY
RICHARDSON TO CONGRESSMAN LES ASPIN



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

Honorable Les Aspin
House of Representatives
Washington, D.C. 20515

NOV 17 1976

Dear Congressman Aspin:

Thank you for your letter of October 2, 1976 regarding an application pending before the Maritime Administration of the Department of Commerce (MarAd) for financial guarantees under Title XI of the Shipping Act of 1916, to enable the construction of seven liquefied natural gas (LNG) tankers to be used to carry LNG from Indonesia to Japan. The LNG tankers in question are being or are planned to be constructed by General Dynamics Corporation at its Quincy, Massachusetts shipyard.

As you are aware, MarAd has made conditional commitments to guarantee obligations in the case of five of the seven ships in question, but has not yet made a final and binding commitment with regard to any of the seven ships.

Your letter is addressed to me in my capacities both as Secretary of Commerce and as Chairman of the President's Task Force on Questionable Corporate Payments Abroad. You express concern not only that the proposed guarantees may be unlawful under the operative "citizenship" tests of the Shipping Act but also that "bribes and payoffs" may have been made in connection with the securing of the LNG Transportation Agreement between Pertamina, the Indonesian state energy enterprise, and Burmast East Shipping Corporation ("Burmast"), a subsidiary of Burmah Oil Company, Ltd. ("Burmah").

This letter addresses, to the extent currently feasible, the concerns you raise, and outlines the steps I plan to take to deal with the remaining issues prior to any final guarantee by MarAd to finance the construction of the LNG tankers in question. I will not set forth the actual details of the financial structure of this

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project, as they have already been described in some detail in the letter sent you by Robert Blackwell, Assistant Secretary of Commerce for Maritime Affairs, on April 21, 1976. In addition, your letter to me states that you are already familiar with the amendments which will be made to the structure, if the application by General Dynamics currently pending in MarAd were to be approved.

Given the complexity of the subject, for ease of exposition, this letter sets forth certain of the major contentions made regarding the financing of these LNG vessels and then addresses each contention based on information currently at hand. First it deals with the "citizenship" issues and then with the "bribery" contentions.

Contentions Regarding "Citizenship" of
Owners and Operators of the LNG Vessels
and Improper Use of the Title XI Guarantees

Contention: Since the LNG vessels are proposed for use in non-U.S. trade -- i.e., between Indonesia and Japan -- the U.S. Government should not help finance their construction.

Answer: This contention is without merit. The Shipping Act explicitly authorizes Title XI guarantees for ships to be used in non-U.S. trades (46 U.S.C. § 1274(a)(1)(C) and 46 U.S.C. § 1244(a)). MarAd is charged with the promotion of the United States' merchant marine. Its responsibilities include providing assistance to American shipyards in obtaining construction contracts and, through the construction of American-flag ships, providing job opportunities for seagoing and related personnel. In the case of Title XI guarantees, a ship need not be slated for direct U.S. trade.

Contention: Energy Transportation Corporation ("Energy") and its subsidiaries (the "Cherokee" corporations) are "controlled" by Burmah, a British corporation and are therefore not legally eligible for Title XI assistance.

Answer: To the best of our knowledge, neither Burmah nor any of its subsidiaries "controls" the Energy group. Prior to making any final guarantee commitment, MarAd will require new and complete affidavits from the Energy group documenting citizenship of its owners and officers.

The corporate and charter relationships in this transaction are complex. This is often the case where such large amounts of money are involved. The complexity of this transaction, in and of itself, cannot be assumed, therefore, to be designed as a cover for illegal dealings. Burmah and certain of its subsidiaries of course are important participants in the project but mainly as the "time charterer" of American-flag vessels. As the time charterer Burmah does not control the vessels physically but rather is the user of the vessels' services, with the ownership and control of the vessel at all times remaining with U.S. citizens. It is no secret, or impediment to consummation of this transaction, that Burmah could not meet the citizenship requirements which are applied to prospective owners of American-flag vessels for which MarAd financial assistance is sought under Title XI.

The General Accounting Office (GAO) has undertaken a review of this matter at the request of Chairman Brooks of the House Committee on Government Operations. MarAd's role and actions to date have been discussed in detail by MarAd staff members with staff of the Government Operations Committee and separately with GAO. To date we have not received any indication from either group that they disapprove of MarAd's course of action.

Contention: The General Dynamics amended application, whereby General Dynamics will become the owner of the vessels constitutes a last minute attempt to rescue an otherwise illegal venture.

Answer: General Dynamics' application is the result of corporate agreements between Burmah and General Dynamics which, to the best of our knowledge, are not motivated by a concern for the "citizenship" of the Energy group. Under the amended application, while General Dynamics would take over ownership of the vessels from Energy, Energy would remain the operator and thus Energy would still have to meet the citizenship

tests of the statute. Energy became the putative owner as well as operator in 1973-1974 when financial market considerations prevented the development of leverage lease financing for the vessels' construction. If a leverage lease arrangement had been possible, legal title would have been vested in trusts established by lending institutions.

Contention: Affidavits of corporate citizenship filed with MarAd prior to its conditional commitment of financing for the LNG tankers, "were fraudulent" and if such fraud is proven, the LNG vessels will be subject to forfeiture to the U.S. Government.

Answer: The contention that fraudulent affidavits have been filed with MarAd is the subject of investigation by the Department of Justice. The affidavits which are subject to this allegation were filed, not by the Energy group, but by a predecessor owner of the Cherokee corporations. They were filed before any construction was begun on the LNG vessels in question. Even if criminal fraud is proved with regard to these affidavits, we are confident that, as a matter of law, this fact does not under the circumstances place a continuing cloud or taint on title to the ships so as to make the remedy of forfeiture available.

As you may be aware, the forfeiture contention is currently the subject of civil litigation in federal district court in New York. In this civil action, most of the documents which have been the basis for media reports, such as The New York Times article of August 19, have been brought to light and as a consequence, MarAd has recently been able to review these documents -- most of them for the first time. Nothing in them, including the "legal memorandum" by Richard Kurrus, would lead MarAd to change its belief that the LNG vessels are not subject to forfeiture.

Contentions Regarding Payoffs or Bribery

Contention: The minority ownership of Burmast, a 57-1/2 percent subsidiary of Burmah, is undisclosed. Burmast has been the vehicle for questionable payments or bribes. Its undisclosed minority owners will reap

"enormous fraudulent annuities" as a result of the Title XI guarantee.

Answer: Burmast has assigned all interests in the Transportation Agreement to Burmah Gas Transport, Ltd., a 100 percent subsidiary of Burmah. Burmast's undisclosed minority shareholders have been displaced by action of its majority shareholders for 150 percent of their original investment which, in each case, was not a substantial amount. (The total buy-out offer was for less than \$25,000). MarAd will receive affidavits with regard to these facts prior to any final commitment of guarantee. If indeed improper "payments" were made in connection with the Transportation Agreement, with Burmast as a vehicle, it would appear that they took the form of an equity share in Burmast to allow participation in future profits resulting from the agreement. With the displacement of the Burmast minority shareholders and the replacement of Burmast by Burmah Gas Transport, Ltd., as described above, all such "faceless annuitants" should be eliminated.

Your letter mentions an additional allegation that Burmah paid a \$3 million "bribe" to high Japanese shipping officials through Mr. Tongsun Park of Washington, D.C. While we do not have evidence to substantiate that any payment was made to Japanese officials, we do know that a commission of \$3 million was paid by a Burmah subsidiary to Tongsun Park's company, Fontas, Ltd., in 1975. It was, as we understand it, made in connection with the cancellation of an oil tanker charter between Japan lines and Burmah. Its size would appear to make it questionable. However, Burmah's total potential financial exposure of this charter was in excess of \$150 million and the size of the commission must therefore be evaluated in this overall context. At any rate, this transaction was not related to the LNG vessels in issue or to the Transportation Agreement for carriage of LNG between Indonesia and Japan. The Securities and Exchange Commission is conducting a private but formal investigation of Burmah's activities, including allegations that Burmah may have made improper payments that should be disclosed to U.S. investors. We will, of course, keep in touch with the SEC with regard to this matter so that any final decision on the Title XI guarantee can be as fully informed as possible. Similarly, as you have urged, we will review the transcript of the John J. McMullen arbitration proceeding.

I have weighed your suggestion that I relieve MarAd of any further decision-making authority in this matter. I do not believe it would be appropriate to do so. I am aware of no evidence that any current official of MarAd has acted improperly or illegally in dealing with these applications for Title XI guarantees. It is appropriate, therefore, that MarAd continue to apply its expertise to the assessment of the General Dynamics amended application.

On the other hand, I do believe that the question of the financing of these ships, involving as it does important ramifications for the Nation's shipbuilding capacity and overall energy policy, as well as allegations of improper corporate payments, must engage my personal attention. Final action on this matter will, therefore, be taken only with my full knowledge and approval. In addition, I have asked the General Counsel of the Department of Commerce, J. T. Smith, to continue a thorough review, already begun, of all the facts and circumstances surrounding the construction of these LNG tankers. If you wish further information on this matter, Mr. Smith would be glad to meet with you.

In summary, we will take every feasible step to assure ourselves that all parties to this transaction, who are required by law to meet the Shipping Act's "citizenship" test, do indeed meet this test. We will also learn everything we can regarding any improper payments which may affect this transaction and will take pains to assure that we do not allow Title XI guarantees, in your words, "to underwrite enormous fraudulent annuities to faceless persons tied to shipping here or abroad."

The decision on the General Dynamics amended application must be taken prior to January 31, 1977, since the Transportation Agreement provides that the parties can terminate their participation if Title XI assistance has not been finally committed by that date. Accordingly, it would not be appropriate for me to leave this decision to the incoming administration and therefore action will be taken on the General Dynamics amended application by January 19, 1977.

A-536

I hope this letter and such further conversation you may have with Mr. Smith fully respond to the concerns you have expressed.

With kindest regards,

Sincerely,

ELLIOT L. RICHARDSON

Elliot L. Richardson

EXHIBIT 6 TO DANNENBERG AFFIDAVIT - AFFIDAVIT OF CITIZENSHIP BY DEFENDANT JOHN C. BULLITT SWORN TO AUGUST 8, 1973

AFFIDAVIT OF U.S. CITIZENSHIP

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

I, JOHN C. BULLITT, of R.D. #1, Princeton, New Jersey, being duly sworn, depose and say:

1. That I am the President of each of Cherokee I Shipping Corp., Cherokee II Shipping Corp., Cherokee III Shipping Corp. and Cherokee IV Shipping Corp., each a corporation organized and existing under the laws of the State of Delaware (hereinafter collectively called the "Corporations"), with offices at c/o The Corporation Trust Company, 100 West Tenth Street, Wilmington, Delaware, in evidence of which incorporation a certified copy of the Certificate of Incorporation, together with a certified copy of the corporate By-laws, have been filed as Exhibits A-1 and A-2, respectively, to the Title XI Application to which this Affidavit is annexed as Exhibit E;

2. That I am authorized by and in behalf of each of the Corporations to execute and deliver this Affidavit of U.S. Citizenship;

3. That the names of the President or other Chief Executive Officer, Vice Presidents or other individ-

uals who are authorized to act in the absence or disability of the President or other Chief Executive Officer, the Chairman of the Board of Directors, and the Directors of each of the Corporations are as follows:

<u>Name</u>	<u>Title</u>	<u>Date and Place of Birth</u>
John C. Bullitt	President/Director	6/6/25; Philadelphia, Pennsylvania
Alan R. Vogeler, Jr.	Secretary/Director	12/1/43; Cincinnati, Ohio
Richard A. Kalaher	Treasurer/Director	4/4/40; Milwaukee, Wisconsin

and that each of said individuals is a citizen of the United States by virtue of birth in the United States.

4. That the information as to stock ownership, upon which each of the Corporations relies to establish that the required percentage of its stock ownership is vested in citizens of the United States, is as follows:

<u>Name of Stockholder</u>	<u>Number of Shares Owned</u>	<u>Percentage of shares owned</u>
John C. Bullitt	500	100%

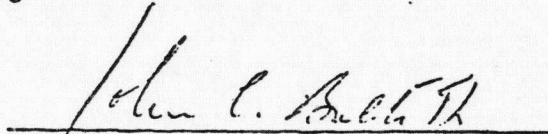
and that said individual stockholder is a citizen of the United States as aforesaid.

5. That the controlling interest in each of

the Corporations, as established by the data hereinbefore set forth, is owned by citizens of the United States; that the title to a majority of the stock of each of the Corporations is vested in citizens of the United States free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; that such proportion of the voting power of said Corporation is vested in citizens of the United States; that through no contract or understanding is it so arranged that the majority of the voting power of said Corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; and that, by no means whatsoever, is control of any of the Corporations conferred upon or permitted to be exercised by any person who is not a citizen of the United States; and

6. That affiant has carefully examined this affidavit and asserts that all of the statements and representations contained therein are true to the best of his knowledge, information and belief.

Dated: August 8, 1973


John C. Bullitt

A-540

Subscribed and sworn to before me, a Notary Public
in and for the State and County aforesaid, this 8th day
of August, 1973.

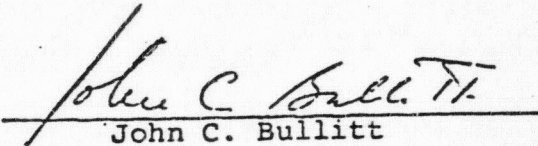
Gilbert H. Bleich
(Notary Public)

My Commission expires:

GILBERT H. BLEICH
Notary Public, State of New York
No. 31-0318250
Qualified in New York County
Commission Expires March 30, 1975

EXHIBIT 7 TO DANNENBERG AFFIDAVIT - CERTIFICATION EXECUTED BY DEFENDANT JOHN C. BULLITT ON INITIAL APPLICATION OF EACH OF CHEROKEE COMPANIES

I, John C. Bullitt, do certify that I am the President of Cherokee II Shipping Corp., the Applicant on whose behalf I have executed the foregoing application; that the Applicant is a citizen of the United States within the meaning of Section 2, Shipping Act, 1916, as amended (U.S.C., Title 46, Sec. 802), Sections 37 and 38, Merchant Marine Act, 1920, as amended (U.S.C., Title 46, Sec. 888), and Section 905(c), Merchant Marine Act, 1936, as amended (U.S.C., Title 46, Sec. 1244); that this application is made for the purpose of inducing the United States of America to issue its guarantee pursuant to the provisions of Title XI of the Merchant Marine Act, 1936, as amended, and (except as otherwise required or approved by the Secretary), the rules and regulations prescribed to carry out the provisions of such Title; that I have carefully examined the application and all documents submitted in connection therewith and, to the best of my knowledge, information and belief, the statements and representations contained in said application and related documents are full, complete, accurate, and true.


John C. Bullitt

Applied on August 8 1973

(7)

Licageas Transport, Inc.
1345 Avenue of the Americas
New York, N.Y. 10019

Gentlemen:

1. This letter will confirm that General Dynamics and Liquegas Transocean, Inc. (hereinafter called LTI) are prepared to execute a vessel construction contract on or before September 15, 1972 in the form and content of the documents attached hereto as Exhibit A and Exhibit B ("Multiple Ship Contract"), with the blanks therein appropriately filled in, subject to all the following conditions:

- (7.) The Maritime Subsidy Board (hereinafter called the "Board") shall approve the Multiple Ship Contract.
- (B) The execution of a subsidy contract in the form and content acceptable to the Board, General Dynamics and LMT simultaneously with the execution of the Multiple Ship Contract.
- (C) The execution of Multiple Ship and Subsidy Contracts, each for one vessel, with Cryogenic Energy Transport, Inc., and LMS Transport, Inc. simultaneously with the execution of your Multiple Ship and Subsidy Contracts.
- (D) The terms and provisions for the complete financing of each of the three vessels are acceptable to General Dynamics.

BEST COPY AVAILABLE

A-543

2. Time is of the essence. Neither party will have any further obligations under the provisions of this letter unless on or before September 14, 1972, your Multiple Ship Contract and the contracts referred to in paragraph 1 (B) and (C) have been executed and the conditions contained in paragraph 1 (D) have been fulfilled.

3. It is requested that ITI confirm its agreement to the foregoing by endorsement hereon.

Sincerely yours,

GENERAL DYNAMICS CORPORATION

By *Hugh T. Verano*
Hugh T. Verano

Assistant General Manager
Quincy Shipbuilding Division

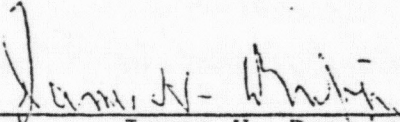
ACCEPTED AND APPROVED,
AUGUST 23, 1972,
LIQUEFAS TRANSPORT, INC.

By *James E. Durbin*

James E. Durbin
President

EXHIBIT 9 TO DANNENBERG AFFIDAVIT - CERTIFICATION EXECUTED BY DEFENDANT JAMES DURBIN ON PRE-SEPTEMBER 15, 1972 APPLICATIONS OF EACH OF CRYOGENIC COMPANIES

I, James H. Durbin, do certify that I am the President of Cryogenic Energy Transport, Inc., the Applicant on whose behalf I have executed the foregoing application; that the Applicant is a citizen of the United States within the meaning of Section 2, Shipping Act, 1916, as amended (U.S.C., Title 46, Sec. 802), Sections 37 and 38, Merchant Marine Act, 1920, as amended (U.S.C., Title 46, Sec. 888), and Section 905(c), Merchant Marine Act, 1936, as amended (U.S.C., Title 46, Sec. 1244); that this application is made for the purpose of inducing the United States of America to grant insurance pursuant to the provisions of Title XI of the Merchant Marine Act, 1936, as amended, and (except as otherwise required or approved by the Secretary), the rules and regulations prescribed to carry out the provisions of such Title; that I have carefully examined the application and all documents submitted in connection therewith and, to the best of my knowledge, information and belief, the statements and representations contained in said application and related documents are full, complete, accurate, and true.


James H. Durbin

Application Dated August 31, 1972

(9)

EXHIBIT 10 TO DANNENBERG AFFIDAVIT - UNCONDITIONAL
GUARANTEE OF DEFENDANT BURMAH OIL COMPANY, LIMITED
TO MAR AD DATED SEPTEMBER 28, 1972

RECEIVED
11/5/72
9th Street
London EC1

The Burmah Oil Company Limited

Burmah House, 57 Chiswell Street, London, E.C.1 Y 4SX

Telephone 01-626 7039

Telegrams Burmoilo London EC1

Telex 898771

Maritime Administration,
Commerce Building,
Washington,
D.C. 20573.

Raw
EC

our reference

your reference

date

28th September 1972

Gentlemen:

We refer to the three applications for Title XI insurance filed on August 31, 1972, in respect of the construction and long term financing of three LNG tanker vessels which are proposed to be constructed by General Dynamics Corporation (the "Builder") and, after completion and delivery, demise chartered to Summit Marine Operations Inc., (The "Operator") and, in turn, time chartered by the Operator to our wholly-owned subsidiary, Burmah Oil Inc. ("BOI").

X We understand that, in order to enable you to give adequate review to the documents underlying said applications (including the proposed forms of demise charter and time charter), it may be necessary to delay the execution of the three construction contracts between the applicants and the Builder.

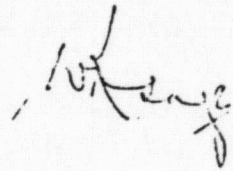
Such being the case and in order to induce a prompt execution of the construction contracts, the undersigned hereby unconditionally and irrevocably guarantees that:

- (A) BOI will, regardless of circumstances, pay charter hire sufficient to meet periodic Title XI insured mortgage payments, as well as applicable Title XI insurance premiums, so long as the applicable vessel shall not be lost, requisitioned for title, forfeited, captured or seized, pay an amount sufficient to redeem in full the unpaid principal of and interest and premium (if any) on, the bonds secured by, and any other sums due under, such mortgage, and

A-546

- (B) If FOI shall default in any obligation, duty or undertaking incumbent upon it under the time charter or any document related thereto, the undersigned will duly and punctually perform such obligation, duty or undertaking. X

Yours faithfully,
THE BURMAH OIL COMPANY LIMITED



W.R. Gage.
Director.

EXHIBIT 11 TO DANNENBERG AFFIDAVIT - FINANCIAL STATEMENT OF
BURMAH OIL COMPANY LTD. FOR SIX MONTHS ENDED JUNE 30, 1976



The Burmah Oil Company Ltd

**Interim report
Half year to 30th June 1976**

Registered office
48 St Vincent Street, Glasgow G2 5TW
Tel. 041-221 3793

Headquarters
Burmah House, Pipers Way, Swindon SN31RE
Tel. Swindon (0793) 30151

Notes

- 1 Group results for the two half years are based on unaudited accounts and estimates.

Trading results for the half year to 30th June 1976 do not include any amounts in respect of Burmah Oil and Gas Company (BOAG) and Burmah Oil Development Inc. (BODI) sold with effect from 1st January 1976.

Trading results for the half year to 30th June 1975 included those of the group's Edwin Cooper interests, sold on that date, but not those of Great Plains Development Company of Canada Ltd (Great Plains), sold with effect from 1st January 1975.

No provision has been included for future losses likely to arise from the long-term shipping commitments of Burmah Oil Tankers Ltd.

Dividends from UK companies and from other trade investments, dealt with in the half years' results, represent one half of the estimated annual totals. Dividends from UK companies include related tax credits.

	Half year to 30th June 1976 £ thousands	Half year to 30th June 1975 £ thousands	Year to 31st December 1975 £ thousands
2 Interest			
*Interest payable	12,697	21,877	43,386
Less interest receivable	4,436	5,329	10,192
Net interest charge	<u>8,261</u>	<u>16,548</u>	<u>33,194</u>

*Excludes: (i) £1,305,000 (half year to 30th June 1975 £1,290,000; year to 31st December 1975 £3,350,000) capitalised as part of the cost of oil and gas exploration and development.

(ii) £9,221,000 applicable to the cost of the acquisition and development of BOAG and BODI and, in 1975, £423,000 applicable to the cost of acquiring the minority interest in Great Plains.

3 Taxation			
Company and subsidiaries	1,536	(6,791)	(7,885)
Associates	(94)	(2,136)	(2,030)
	<u>1,502</u>	<u>(8,927)</u>	<u>(9,915)</u>

Group taxation (which is mainly overseas taxation) has been stated after crediting an amount of £8,901,000 (June 1975 £985,000; December 1975 £3,421,000) representing corporation tax relief available on setting revenue losses against chargeable capital gains and after charging £366,000 (June 1975 £610,000; December 1975 £1,216,000) tax attributable to dividends from UK companies.

4 Extraordinary items

The net credit for the half year to 30th June 1976 consists of adjustments on currency realignments, £20,523,000, together with a net surplus on the sale of subsidiaries and certain other trading interests, £7,909,000 (including a surplus on the sale of the group's interest in the Ninian oilfield, £41,000,000, and a deficit on the sale of BOAG and BODI, £37,000,000) partly offset by cancellation fees and provisions in respect of tanker operations (£11,094,000), losses on realisation of other assets (£6,056,000) and miscellaneous items (£991,000).

Summary of results

The Burmah Group

Half year to 30th June 1976

	Half year to 30th June 1976 £ thousands	Half year to 30th June 1975 £ thousands	Year to 31st December 1975 £ thousands
Turnover net of duties	401,756	443,890	914,821
Profit on trading excluding tankers	21,989	44,620	85,240
Loss on tankers	(24,746)	(17,513)	(30,589)
(Loss)/Profit on trading	(2,757)	27,107	54,651
Depreciation, depletion and amortisation	6,203	20,402	44,111
Net operating (loss)/profit	(8,960)	6,705	10,540
Share of profits of associates	199	3,921	3,447
Dividends from UK companies	1,072	1,753	3,497
Other trade investment income	988	1,342	2,117
	(6,701)	13,721	19,601
Interest	8,261	16,548	33,194
Loss before taxation	(14,962)	(2,827)	(13,593)
Taxation	1,502	(8,927)	(9,915)
Loss after taxation	(13,460)	(11,754)	(23,508)
Minority interests	(291)	(797)	501
Loss before extraordinary items	(13,751)	(12,551)	(23,007)
Extraordinary items	10,291	6,433	12,565
Loss after extraordinary items	(3,460)	(6,118)	(10,442)

Chairman's statement to stockholders

Enclosed with this interim report, stockholders will receive a letter giving details of major disposals together with a summary of other important events which have occurred in recent months. These and earlier disposals need to be considered when comparing the results for the half year to 30th June 1976 with the corresponding period in 1975.

Trading Results

Profit on trading, excluding tankers, was £22.0 million against £44.6 million for the corresponding period of 1975. However, if the trading results of the subsidiaries sold had been excluded from the 1975 figures, the profit of £44.6 million would have been reduced to about £18.0 million. Thus the results for the first six months of 1976 for the group's remaining interests, excluding tankers, show an improvement of approximately £4.0 million over the corresponding period last year.

Castrol worldwide continued to improve. Burmah Industrial Products, Quinton Hazell and Burmah Engineering all showed increases in profits over 1975, partly offset by reduced profits from Halfords. Fuels marketing was adversely affected as higher costs could not be fully recovered in a highly competitive market. These cost increases were due mainly to the effect on crude oil prices of the fall in the value of sterling. Other activities showed a small improvement.

Although actions taken to limit exposure contributed to an improvement of about \$12 million on tanker operations, this was more than offset by the need to make provisions for amounts due under certain charter parties. In addition, the fall in value of sterling of approximately 19 per cent

contributed to an increased loss of £24.7 million compared with £17.5 million for the corresponding period of 1975.

The reduction in the share of profits of associates is due to the sale of certain of the group's interests in India and reduced income from that area.

The charge for interest of £8.3 million is after exclusions, details of which are given in note 2. The loss before taxation was £15.0 million and after a net tax credit of £1.5 million was £13.5 million.

Extraordinary items, details of which are given in note 4, reduce the loss to £3.5 million as against £6.1 million for the corresponding period of 1975.

Interim Dividend

Your directors regret that in the company's present circumstances they cannot declare an interim dividend for 1976.

Prospects

It is not possible at this stage to give any indication of the trading results for the full year.

12th October 1976

Alastair Down
Chairman

SUPPLEMENTAL AFFIDAVIT OF RICHARD B. DANNENBERG,
ESQ., FOR RELATOR, IN OPPOSITION TO MOTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, by
Dorothy S. Greenberg, for herself
as well as for the United States
of America,

Plaintiff,

-v-

THE BURMAH OIL COMPANY LIMITED, et al.,

Defendants.

: 76 Civ. 4351 (WK)

: SUPPLEMENTAL
: ANSWERING AFFIDAVIT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

RICHARD B. DANNENBERG, being duly sworn, deposes and
says:

1. I make this affidavit to supplement my answering
affidavit sworn to December 8, 1976 in opposition to the motions
to dismiss this action for lack of subject matter jurisdiction.
Annexed hereto as Exhibit 12 is a numbered page document entitled:

"A PROPOSAL TO JAPAN LINE, LTD.
FOR THE FORMATION OF A TRANSPORTATION
JOINT VENTURE OF LIQUIFIED NATURAL GAS"

dated May 29, 1975 from the files of the Burmah defendants.

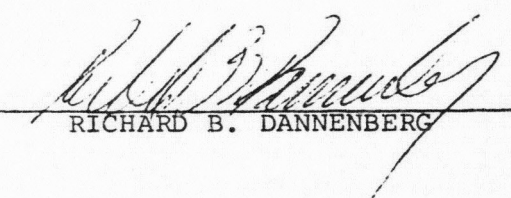
Among other paragraphs of importance, we wish to call
the court's attention particularly to the section entitled
"BACKGROUND" on page 10 and particularly the paragraphs reading

"The three Easco vessels were originally
dedicated to the transportation of LNG
from Algeria to the East Coast of the United
States for a joint venture of two
utilities ("Eascogas"). However, in
July 1974 the Algerians rescinded the
LNG sales contract underlying the trans-
portation agreement. As a result of
this action and the subsequent delay in
formation of a new sales contract,
Burmah has notified Eascogas that these
ships could no longer be exclusively re-
served for the Eascogas project. Instead,

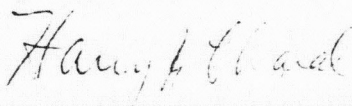
it is contemplated that these ships will be considered to fulfill the requirements of the transportation agreement which Burmah signed with Pertamina for the transportation of Indonesian gas to Japan. However, this is not definite and the possibility of a new transportation agreement with Easco is also being considered.

In addition to these vessels, Burmah Tankers has also caused an additional five identical ships to be contracted at General Dynamics to service the Pertamina Transportation Agreement, . . ."

I also would like to call Your Honor's attention to Section VI entitled "PROFITABILITY" at page 17 wherein Burmah projects annual net income between \$54.8 million and \$65.4 million with respect to the operation of eight L.N.G. vessels.

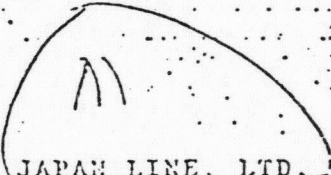

RICHARD B. DANNENBERG

Sworn to before me this
10th day of December, 1976.



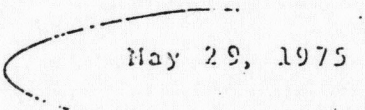
HARRY H. CHADAL
Commissioner of Courts
City of New York
Certified to be the County Clerk
Commission Expires June 1, 1977

EXHIBIT 12 TO DANNENBERG SUPPLEMENTAL AFFIDAVIT - DOCUMENT DATED MAY 29, 1975 ENTITLED "A PROPOSAL TO JAPAN LINE, LTD. FOR THE FORMATION OF A TRANSPORTATION JOINT VENTURE OF LIQUIFIED NATURAL GAS"


A PROPOSAL TO JAPAN LINE, LTD. FOR
THE FORMATION OF A TRANSPORTATION
JOINT VENTURE OF LIQUIFIED NATURAL GAS

Submitted by:

Burmah Oil Tankers Limited
1185 Avenue of the Americas
New York, New York 10036


May 29, 1975

11

TABLE OF CONTENTS

- I INTRODUCTION
- II THE PARTNERSHIP
- III BACKGROUND
- IV THE SHIPS
- V THE TRANSPORTATION AGREEMENT
- VI PROFITABILITY
- VII THE LNG TRANSPORTATION MARKET

ATTACHMENTS

- EXHIBIT 1: General Dynamics 125,000 M³ LNG
Ship Abstract Specification
- EXHIBIT 2: Quantities to be Transported
- EXHIBIT 3: Minimum Freight
- EXHIBIT 4: Shipbuilding Contract

I INTRODUCTION

In recognition of Japan Line's willingness to discuss the cancellation of two five-year charters and in the interest of maintaining an ongoing relationship between Japan Line Ltd. and Burmah Oil Tankers, Ltd., this proposal is submitted for the purpose of investigating the possibility of a formation of a joint venture between Japan Line and Burmah Tankers for the transportation of liquified natural gas (LNG).

Under the suggested joint venture Japan Line would become the half owner of five 125,000 cubic meter LNG carriers which are presently under construction at the General Dynamics shipyard in Quincy, Massachusetts with the first of five vessels scheduled for delivery in November, 1977. Burmah Tankers and Japan Line would operate the ships jointly under a long-term LNG transportation agreement for the transportation of LNG from Indonesia to Japan.

In addition to the five LNG carriers which are the principal subject of this suggested joint venture, Burmah also has under construction three other LNG carriers also at General Dynamics, making a total of eight ships in all. At present, the first, second and fourth ships to be delivered are designated as the "Easco" ships and the remaining five ships considered in this proposal are designated as the "Cherokee" ships. In the case of the Easco ships, financing has been completely arranged and the first of the Easco vessels is scheduled for delivery in November, 1976. Because the financing has been arranged with Title XI and

Construction Differential Subsidy ("CDS") has been approved for the Easco ships, they will be operated under U.S. flag conditions.

The Pertamina Transportation Agreement calls for eight ships and in the interest of giving Japan Line all of the basic information which they may require at this time, the statistics and financial results in this proposal will assume the use of eight ships with operating costs based on U.S. flag operations. While it would be possible to consider all eight ships in the joint venture, the possible requirement of repaying the CDS and arranging new financing would probably eliminate the Easco ships from the suggested joint venture. On the other hand, three additional LNG carriers would have to be included in the overall transportation system in order to satisfy the requirements of the Pertamina contract and these three additional LNG carriers could either be constructed at Quincy or at a Japanese shipyard or even possibly secured on the world market on a resale basis.

The transactions involved in establishing the possible joint venture and the servicing of the long-term transportation agreements are of necessity complex and subject to negotiations between Japan Line and Esso Tankers. Therefore, it is the intent of this proposal to present a brief outline of the background and the main elements involved to serve as a basis for further discussions.

II THE PARTNERSHIP

Burmah Oil Tankers Ltd., a Bermudian corporation and a wholly-owned subsidiary of The Burmah Oil Company, Limited, a Scottish corporation, is presently guaranteeing the construction and operation of eight 125,000 cubic meter LNG carriers under construction at the General Dynamics Shipbuilding Division in Quincy, Massachusetts. This program represents the most extensive LNG transportation project underway anywhere in the world.

Burmah Tankers proposes a possible joint venture with Japan Line whereby Japan Line would become the 50% owner of five of these LNG carriers which would be operated to service a profitable long-term gas transportation contract between Indonesia and Japan. The transportation agreement requires seven and provides for a total of eight ships. The additional two or three ships could be either the so-called Easco ships, new buildings, or resales. The ships would be operated by either Japan Line and/or Burmah Oil Tankers and/or an independent management group. This is a point which would be resolved in the detailed negotiation.

As noted in the Introduction, the financing for the three Easco vessels is complete. While it would be theoretically possible to consider the Easco ships as part of the joint venture, these three vessels were constructed with U.S. government subsidies, requiring them to remain under U.S. flag while benefiting from U.S. government Title XI guaranteed financing. It is possible that repayment of the construction differential subsidy would allow us to alter the ownership and flag status of these vessels.

of additional LNG vessels either independently or as an extension of the Japan Line-Burmah joint venture. While the subject LNG carriers are intended for commitment to servicing the transportation contract with Pertamina for LNG from Indonesia to Japan, it is possible to substitute other LNG vessels under the Pertamina contract, leaving the Japan Line-Burmah joint venture vessels free for transportation of LNG in other areas of the world. There are several other programs under actual consideration at this time and depending upon the development of the proposed joint venture, these additional LNG projects could be possible means of either developing the joint venture or providing Japan Line with an independent development of their own.

5. The transportation agreement with Pertamina provides a profitable long-term contract and all of the associated terminal liquefaction plants and the other supporting part of the system required for an LNG transportation system are certainly under construction and are scheduled for completion in approximately March, 1977. This means that the vessels will have immediate and profitable employment and will ensure the economic feasibility of the construction from the very beginning.

Burmah is now proceeding to make arrangements for the financing of the remaining five. These ships are the principal substance of this proposal. The advantages to Japan Line, as well as to the nation of Japan, from the proposed joint venture are generally as follows:

1. Japan Line would become the 50% owner of five of the most technically advanced vessels in the world. The average construction price of these five Cherokee ships is approximately \$96,000,000 but would cost in the range of \$135,000,000 to \$140,000,000 to duplicate today. This presents Japan Line with an unusual opportunity to expand their fleet with five of the most advanced ships in the world and will further provide Japan Line with an entry into the highly technical LNG transportation field.
2. Japan Line would be involved in the most extensive LNG transportation program in actual operation in the world. Most important Japan Line would save some four or five years of development because in order to independently commence an LNG program of this magnitude, Japan Line would require at least four or five years to reach the same status as the Burmah program.
3. Japan Line would be provided with all of the technology to be able to develop the necessary technical and operating experience for the acquisition and operation

6. At the conclusion of the long-term 20-year contract, the ships will have an additional 4-1/2 to 7-1/2 years of service (depending on whether certain options of the long-term contract are exercised) and the residual value at the end of 27-1/2 years would be in excess of \$20,000,000.
7. Because the LNG will be sold to Japan, the Japanese balance of payments would benefit by Japan Line's participation in this project. Furthermore, the participation by Japan Line in the venture would be of national significance and enhance the reliability and approach covering the transportation of LNG into Japan.
8. If the joint venture were created and Japan Line gained 50% equity in the LNG carriers, that 50% equity would immediately represent an increased value of \$20,000,000 per ship to Japan Line in view of the fact that new contract would be at least \$40,000,000 higher in the market today. It is recognized that this might be questioned on the basis that the purchase of resale contracts and/or ships might be possible but these can only be obtained in limited number and furthermore the companies which presently own these contracts recognize the potential value of them. It is believed that resales can only be

considered as a supplement to the basic Pertamina Transportation Agreement.

The advantage to Burmah from the proposed joint venture is a relief from the financial guarantees presently required for the construction of the ships and for the guarantee of the time charter over twenty years operation. The requirement of Burmah to reduce some of its financial exposure at this time is the driving force behind this proposal. In addition, Burmah recognizes that the proposed joint venture with Japan Line would ensure a far better relationship with the Japanese utilities and in securing the approval of all of the necessary Japanese regulatory bodies. Most important, of course, is that the joint venture with Japan Line would be dependent upon the willingness of the Japanese banks to provide the necessary long-term financing for the construction of the vessels and permit the elimination or modification of the Burmah Oil guarantee on the charter.

The following section presents a brief description of the background and further information for Japan Line's consideration.

III BACKGROUND

All eight vessels are being constructed by the General Dynamics Shipbuilding Division at Quincy, Massachusetts. These vessels are now estimated for delivery from November 1976 to April 1979 at three to six month intervals.

The three Esco vessels were originally dedicated to the transportation of LNG from Algeria to the East Coast of the United States for a joint venture of two utilities ("Escogas"). However, in July 1974 the Algerians rescinded the LNG sales contract underlying the transportation agreement.

As a result of this action and the subsequent delay in formation of a new sales contract, Burmah has notified Escogas that these ships could no longer be exclusively reserved for the Escogas project. Instead, it is contemplated that these ships will be considered to fulfill the requirements of the transportation agreement which Burmah signed with Pertamina for the transportation of Indonesian gas to Japan. However, this is not definite and the possibility of a new transportation agreement with Esco is also being considered.

In addition to these vessels, Burmah Tankers has also caused an additional five identical ships to be contracted at General Dynamics to service the Pertamina Transportation Agreement, the basic terms and conditions of which are summarized in Section V of this proposal. This agreement provides a major advantage in that the Indonesian liquefaction plant is scheduled for completion in early 1977. In most LNG transportation projects, it is not unusual for the first vessel to be delivered and proceed directly into layup to await the completion of the liquefaction plant.

The Esco ships are being constructed with Construction Differential Subsidies of \$21,252,000 per ship and Title XI guaranteed financing provided by the U.S. Government. The remaining five have a preliminary commitment for U.S. Government Title XI construction financing and Construction Differential Subsidy is not contemplated. The U.S. Government provides these shipbuilding incentives with the requirement that the vessels be operated under U.S. registry with at least 51% U.S. ownership. As noted previously, registration under non-U.S. flag of the Esco ships would possibly require repayment of the construction subsidies. ^E Given with repayment of subsidy the construction costs are less than \$95,000,000 and could not be duplicated anywhere else in the world.

As noted the construction and long-term financing for the Esco vessels has been arranged. The ownership of these three vessels rests in a financial group led by the First National City Bank and includes The First National Bank of Chicago and General American Transportation Corporation (GATX), a major transportation leasing company. In the case of the second series of five ships, neither the construction nor long-term financing arrangements are yet complete and, at the present time, Burmah Oil is providing the funds for the construction of these five ships. Steps will soon be taken to arrange both the construction and long-term financing. Therefore, if non U.S. flag operation is to be considered, a decision must be made before U.S. financing is finalized.

While the details of ownership and operation are complex, all eight ships are, in one form or another, guaranteed by Burmah. Since Burmah is to be the long-term charterer of the ships, and it has guaranteed construction financing and the time charter payments, that supports the long-term financing. Clarification of the various interrelationships can be provided. At this time, it is sufficient to state that the purpose of the different corporations is to provide for U.S. construction benefiting for Title XI financing.

As has been noted in the press, the financial losses incurred by Burmah Tankers in 1974 in connection with their fleet of forty-eight crude oil carriers, has made it necessary for the Bank of England to guarantee \$650,000,000 of loans to Burmah Oil until December 31, 1975. This financial crisis developed, not because of the LNG vessel program, but because of the results of the operating fleet and the significant impact of the potential financial liability when the total of Burmah's long-term financial guarantees are considered. Obviously, this has a significant impact on the credit reliability of the overall Burmah Oil guarantee. Nonetheless, Burmah Oil is confident that the construction and long-term financing for the five Pertamina ships will be arranged prior to the end of 1975 because:

1. the economic advantages of the Transportation Agreement with Pertamina,
2. the interest and requirement of the Japanese utilities as the users of the LNG to be transported.
3. LNG ships under construction at General Dynamics represent values which could not be repeated in the present market.
4. the potential demand for LNG ships in significant numbers.

At the same time, however, it is recognized that all possible alternatives should be considered. One of these alternatives would be the 50% joint venture with Japan Line covering the five Cherokee ships. While such a plan may require the approval of the U.S. Maritime Administration, preliminary indications are that such approval would be forthcoming. In the event of preliminary interests, this approval could be obtained in principle. Under such a plan, the Joint Venture would not be entitled to U.S. Construction Differential Subsidies, which have been obtained for the Esco ships, nor the Title XI guaranteed financing for both the construction loans. This means that the financing would have to be provided

solely on the credit of the Joint Venture, the Pertamina Transportation Agreement, and the credit of the Japanese and users.

Because of the financial situation in which Burmah Oil presently finds itself, it is reviewing all alternatives in connection with its profitable and progressive liquefied natural gas transportation program.

The average contract price for all eight ships is approximately \$28,000,000 and there is no question but that the effort to duplicate these ships in the present world financial conditions would require a minimum of \$135.- \$140,000,000 per ship. It can be readily established, therefore, that the contracts for these ships have a market value of at least \$40,000,000 per ship in excess of the present fixed price contracts with General Dynamics.

In addition, the Pertamina Transportation Agreement requires the long-term utilization of seven ships and provides for utilization of the eighth. The terms and conditions of the overall transportation agreement provide for a fair and reasonable profit factor after depreciation and operating costs are covered.

Therefore, Burmah proposes that the proposed joint venture purchase the five Cherokee ships. The responsibility of Japan Line as the 50% purchaser would be to provide the financing guarantees and 50% equity for the five ships under the terms and conditions of the contracts presently in force with General Dynamics and to permit the elimination of the Burmah Oil guarantee on the time charters and the Pertamina Transportation Agreement.

Assuming an equity investment of 20%, or approximately \$23,000,000, Burmah and Japan Line would each contribute \$11,500,000 per ship and Japan Line would provide the necessary guarantees for the remaining costs or approximately \$91,000,000 per ship. In summary, Japan Line and Burmah would

invest \$57,000,000 each and Japan Line would arrange the financial guarantees for the remainder of about \$457,000,000 including interest during construction, for a total of \$572,000,000.

All of the above costs are covered by the transportation agreement.

IV THE SHIPS

The characteristics of the eight identical ships are summarized in Exhibit 1. This Exhibit was prepared by the builder, General Dynamics Corp., as promotional literature, but presents a concise summary of the vessel characteristics. The prices of the individual vessels vary according to their delivery schedule, due to escalations in the building contracts. The "capitalized costs" of each vessel include all costs of procuring the vessels and placing them in service, which costs include, in addition to the construction contract price, the interest and other financing charges on the construction loans, and the costs of inspection and supervision of construction. The delivery schedule, prices, and estimated capitalized cost at delivery date are currently as follows:

Ship	Builders' Hull #	Builders' Estimated Delivery as of 20 Feb. 1975	Contract Price with Changes (in \$ millions)	Estimated Capitalized Cost at Delivery
1	41	11/25/76	73.0*	91.6
2	42	5/07/77	73.0*	90.4
3	44	11/26/77	94.5	112.2
4	46	3/11/78	73.0*	90.7
5	47	7/15/78	94.5	113.0
6	50	10/07/78	97.4	115.8
7	48	1/13/79	94.5	113.0
8	49	4/07/79	98.5	117.7

* Does not include \$21.3 per vessel Construction Differential Subsidy by U.S. Government for the three Lasco ships.

V THE TRANSPORTATION AGREEMENT

The Transportation Agreement is between Pertamina and Burnast East Shipping Corporation, a majority owned subsidiary of Burmah Oil Tankers Limited. Its principal points are:

1. Transportation to be Furnished:

The Transportation Agreement requires seven and provides for eight 125,000 m³ capacity LNG carriers be dedicated by Burmah and owned and operated by Burmah or persons approved by Burmah. The dedication of the eighth vessel is dependent on gas availability. The vessels are to be placed in service under the agreement as follows:

<u>Ship No.</u>	<u>Date</u>
1	March 1, 1977
2	June 30, 1977
3	January 1, 1978
4	August 1, 1978
5	January 1, 1979
6	September 30, 1979
7	January 1, 1980
8 (assumed)	September 30, 1980

2. Term of Transportation:

The term of service is twenty years for each vessel from commencement of service with option for three additional years on each vessel.

3. Quantities to be Transported, Origins Destinations:

The LNG is to be transported from East Kalimantan and North Sumatra, Indonesia, to Japan, beginning in 1977 at 3,910,000 m³ per year from 1980 through 1996, and thereafter declining to final delivery of 3,840,000 m³ in 1999. See Exhibit 2 for details.

4. Freight:

a. Base Rate:

For required "Aggregate Annual Quantity" per paragraph 3 above: shipments from E. Kalimantan \$5.836 per m³ loaded; shipments from

North Sumatra \$7.403 per m³ loaded.

b. Additional Annual Quantity:

Quantities transported in excess of Aggregate Annual Quantity: from E. Kalimantan \$4.227 per m³ loaded; from North Sumatra \$5.361 per m³ loaded. Additional annual quantity estimated to be 10% of Aggregate Annual.

c. Minimum Freight:

Ship or pay amounts based on Aggregate Annual quantities, subject, however, to reduction for quantities not shipped due to force majeure: \$22,819,000 in 1977 rising to \$119,533,000 for years 1980 to 1996 and thereafter decreasing to \$28,428,000 in 1999. (See Exhibit 3.)

d. Adjustment of Freight Rates:

Base Freight rates will be adjusted for (1) increase or decrease in Annual Operating Costs over specified base per ship, (2) "unavoidable" costs incurred after initial required availability date and caused by non-utilization by Pertamina; (3) increase in construction cost of vessels 1, 2, and 3 (Hull #44, 47 and 50) over \$92.0 million per ship due to changes required by Pertamina or regulatory agencies; and (4) increases in construction cost of dedicated vessels 4, 5, 6 and 7 (Hull #48, 49 plus additions) over \$92.0 million per ship for any reason.

VI PROFITABILITY

For each full year of operation of eight vessels profitability is estimated as follows:

	<u>Lower Projection</u>	<u>Upper Projection</u>
Gross Income	\$136,604,000 ¹	\$147,232,000 ²
Operating Cost ⁶	36,456,000	36,456,000 ³
Depreciation of Capitalized Cost ⁴	<u>45,403,000</u>	<u>45,403,000</u>
Net Income	\$ 54,845,000	\$ 65,373,000

Total profitability analysis should also take into consideration that the estimated service life of the ships is at least 27-1/2 years and there is a residual value of at least \$10,000,000 per vessel at the end of estimated service life.⁵

1. Annual Aggregate Quantities x Base Freight Rates.
2. 110% of Annual Aggregate Quantities with 7.5% @ excess quantity rates
3. Excess operating costs for transporting excess quantities are fully reimbursed under the adjustment in freight rate provisions of the transportation agreement.
4. Depreciation is based on 20 years.
5. "Based on the above analysis of the factors affecting the useful life, and in consideration of the resale and/or scrap value of the vessels, it is our opinion that the estimated serviceable life is at least 27 1/2 years, and that at the end, the vessels will have an estimated residual value of not less than 21.46% of their original cost."
6. Operating costs are based on U.S. flag operation.

VII THE LNG TRANSPORTATION MARKET

Since the vessels are assured profitable employment under the Pertamina Transportation Agreement ensures the financial success of this proposed joint venture. If it is decided to substitute other vessels to service the Pertamina agreement, the ships offered in this proposal are still assured of profitable employment.

Future energy needs are such that the demand for gas cannot but grow. The increasing emphasis on environmental considerations in major industrial nations has rapidly increased the demand for such "clean" fuels beyond previously predicted limits.

A recent LNG trade forecast completed by Shell International Gas Limited predicts an LNG ship requirement for the mid/late 1980's as follows:

<u>Market Served</u>	<u>Number of 120,000 m³ capacity ships</u>	
	<u>Lower Level</u>	<u>Upper Level</u>
U.S.A.	40	100
Japan	25	50
Western Europe	<u>10</u>	<u>20</u>
TOTALS	75	170

LNG carriers currently built or under firm order number are reported to be 67 and in terms of 120,000 m³ equivalents the number built or on order is 55. Clearly the demand for LNG carriers in the mid to late 1980's is in excess of demand.

REPLY AFFIDAVIT OF CHARLES FRANKLIN RICHTER,
FOR GOVERNMENT, IN SUPPORT OF MOTION
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDGE KNAPP

UNITED STATES OF AMERICA, by :
Dorothy S. Greenberg, for herself :
as well as for the United States :
of America, :

Plaintiff, :

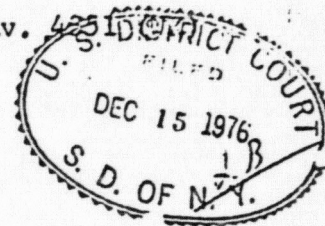
-v- :

THE BURMAH OIL COMPANY LIMITED, :
et al., :

Defendants. :

REPLY AFFIDAVIT

76 Civ. 425



STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

CHARLES FRANKLIN RICHTER, being duly sworn,
hereby deposes and says:

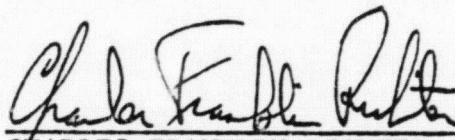
1. I am an Assistant United States Attorney in the office of Robert B. Fiske, Jr., United States Attorney for the Southern District of New York and attorney for the United States of America in this action. I submit this reply affidavit in support of the Government's motion to dismiss this action for lack of jurisdiction.

2. On or about November 29, 1976, I was telephoned by Richard Dannenberg, the attorney for the relator in this action. While Mr. Dannenberg in his affidavit in this action refers to a conversation with a Mr. Schechter, there is no Mr. Schechter in our office and I was the one who spoke with Mr. Dannenberg. He said that he had learned that the United States intended to make a motion to dismiss this action and asked if the Government would consent to his obtaining additional time to respond to the motion.

3. I informed him that the United States would not agree to an extension of time. At no time did I say to him, or in any way imply, that the United States would not agree to an extension because some department or agency of the United States Government had already determined that it would approve the applications now pending for Title XI loan guarantees on the Cherokee vessels or that the application would be approved once this action is disposed of.

4. In fact, I am one of the attorneys responsible for the investigation being conducted by the United States Attorney's office for the Southern District of New York, in conjunction with attorneys for the Department of Justice in Washington, concerning allegations that the Merchant Marine Act of 1936, as amended, has been violated by applications for construction differential subsidy and Title XI loan guarantees in connection with construction of the Cherokee and Cryogenic vessels described in the papers submitted herein by the United States. This investigation is being conducted, not because of the relator's action, but because of the request by Congressman Aspin as described in the affidavit of Calvin Kurimai submitted in support of the Government's motion.

5. At the time of my conversation with Mr. Dannenberg, this investigation was continuing and no conclusions had been reached. The investigation is continuing at the present time.



CHARLES FRANKLIN RICHTER
Assistant United States Attorney

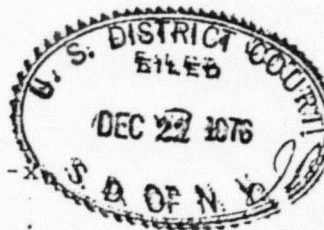
Sworn to before me this
14th day of December 1976


NOTARY PUBLIC

RALEIGH I. LEE
Notary Public, State of Virginia
No. 41-2-1000
Term Expires 12/31/77

MEMORANDUM AND ORDER OF JUDGE WHITMAN KNAPP
DATED DECEMBER 22, 1976

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA, by
Dorothy S. Greenberg, for herself
as well as for the United States
of America,

Plaintiff,

- against -

THE BURMAH OIL COMPANY LIMITED,
et al.,

Defendants.

MEMORANDUM AND ORDER

76 Civ. 4351

KNAPP, D.J.

The United States has entered a special appearance in order to bring this motion to dismiss the complaint for lack of jurisdiction. We grant the motion.

The relator Dorothy S. Greenberg filed this qui tam action on September 20, 1976 in the name of the United States pursuant to 31 U.S.C. §232(B) of the False Claims Act. According to the allegations of the complaint, the defendants conspired to make false statements concerning the citizenship of two sets of applicants for subsidies and loan guarantees from the Maritime Administration. A jurisdictional prerequisite of the False Claims Act, contained in §232(C), is that the evidence or information supporting the complaint be unknown to the Government prior to the commencement of the action. The Government contends that the

8

MICROFILM

DEC 22 1976

jurisdictional requirement has not been met.

The alleged fraud which the relator seeks to redress was the subject of an inquiry in March, 1976 by Congressman Les Aspin. In May, 1976, the Congressman referred the matter to the House Committee on Government Operations and to the Department of Justice; both commenced investigations. In early September the SEC began its own inquiry into the corporate transactions involved. Moreover, in August the alleged scandal was brought to the public's attention by a series of articles published in the New York Times, and was subsequently carried by other newspapers.

Pursuant to §232(C) of the Act, the relator submitted to the Department of Justice copies of all documents -- ten in number -- upon which she based her complaint. With/one exception those documents, or the information contained in them, were within the actual possession of one or another government body before the complaint was filed.^{1/} Nevertheless, the relator has urged several theories by which we should maintain jurisdiction.

The one new document which the relator claims to have brought to the Government's attention is a memorandum by a lawyer named Richard Kurrus from which it might be inferred that certain officials of the Maritime Administration knew about the alleged fraud, and perhaps that they were condoning it. The relator argues that this memorandum in itself constitutes substantial information and also that it warrants our concluding that the Maritime Administration was sufficiently involved in the scandal so that we should disregard any documents or information it possessed in making our determination.

As for the claim that the Kurrus memorandum constitutes substantial information, we so assume for present purposes. We note, however, that it was specifically identified and fully described in an August New York Times article. As a result, the information it contained was public knowledge. A copy of the article was in the files of the Justice Department. The information was therefore in the Department's possession, and the memorandum itself would inevitably have been acquired by the Department in the course of its investigation had it been considered important.

As for the claimed complicity of the Maritime Administration, we can of course express no views on the basis of the record before us. However, for purposes of the instant motion we adopt the relator's position and disregard the information possessed by the Administration.

The other government body which before the relator filed this complaint had in its files most of the relevant information was the House Committee on Government Operations. The relator maintains that we should disregard the Committee's knowledge, urging us to construe the Act as referring to information in the possession only of the executive branch of the government, presumably because only the executive branch can take legal action to prosecute and redress fraud. We have found no authority that so limits the False Claims Act. Indeed, other courts have, in passing, included Congress in their consideration of whether the jurisdictional requirements of the Act have been met. See e.g. United States ex rel Sherr v. Anaconda Wire and Cable Co. (S.D.N.Y. 1944) 57 F.Supp. 106, 108 aff'd (2d Cir. 1945) 149 F.2d 680.

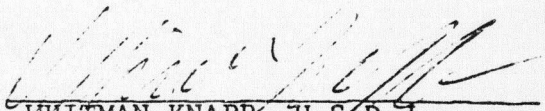
Essentially, the relator is suggesting that but for her activities Congressman Aspin and the House Committee might well have been frustrated, and the results of their investigations ignored. In so arguing she misconstrues the purpose of the False Claims Act. The Act was designed to encourage citizens to come forward with information of which the Government might be ignorant. It was not designed to permit citizens to call upon the courts to supervise the manner in which the Government deals with information it already has. Cf. United States ex rel Thompson v. Hays (D. D.C. 10/30/76) Civil Action No. 76-1140, United States ex rel Martin-Trigona v. Ford (D. D.C. 10/28/76) Civil Action No. 76-1374; see the legislative history of the Act discussed in U.S. ex rel Sherr v. Anaconda, *supra*, and U.S. ex rel Vance v. Westinghouse Electric Corp. (W.D. Penn. 1973) 363 F.Supp. 1038.

Accordingly, we dismiss the complaint for failure to comply with the jurisdictional requirement.

Pursuant to a stipulation between the Government and the defendants, the court has temporarily sealed certain documents filed in connection with this motion. There seeming to be no purpose in continuing the secrecy, the order sealing those documents is vacated. So it may be clear that no defendant is waiving any claim of privilege, let it be recited that this order of vacature is made sua sponte over defendants' protest.

Settle order.

Dated: New York, New York
December 22, 1976.


WHITMAN KNAPP, U.S.D.J.

FOOTNOTES

1/

The Maritime Administration had all of the information except for the Kurrus memorandum. The Administration had obtained certain information relating to possible self-dealing by Elias J. Kulukundis from a complaint filed in New York State Supreme Court rather than from the documents subsequently supplied by the relator. The House Committee on Government Operations had substantially the same information as the Maritime Administration. The Committee did not, however, have the folder of newspaper clippings compiled by the relator.

The Securities and Exchange Commission had none of the material information. The Department of Justice had only the New York Times articles and Congressman Aspin's remarks in the Congressional Record.

ORDER AND JUDGMENT APPEALED FROM

{18}

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, by
Dorothy S. Greenberg, for herself
as well as for the United States
of America,

Plaintiff,

-v-

THE BURMAH OIL COMPANY LIMITED,
et al.,

Defendants.

: RELATOR'S PROPOSED

: COUNTER-ORDER ✓

: 76 Civ. 4351 (WK)

: *Judgment*

-----x

The Court having considered the papers filed in connection with the motion to dismiss for lack of jurisdiction made herein by the United States of America, which has specially appeared in this action, and having concluded in its Memorandum and Order of December 22, 1976, that the Court lacks jurisdiction pursuant to 31 U.S.C. §232(C) and that its order of December 2, 1976, concerning certain documents filed with the Court in connection with such motion should be vacated,

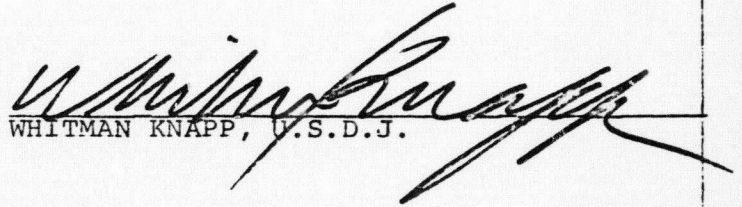
NOW, upon motion of Robert B. Fiske, Jr., United States Attorney for the Southern District of New York and attorney for the United States of America,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED: (1) the clerk shall enter judgment against Plaintiff Relator Dorothy S. Greenberg dismissing this action without costs, and (2) the Court's order of December 2, 1976, is vacated in its entirety and the clerk is directed not to place under seal any of the

documents that have been filed in connection with this action.

Dated: New York, New York

January 6, 1977


WHITMAN KNAPP, U.S.D.J.

JUDGMENT ENTERED -

1/10/77

S. J. [unclear] [unclear]
CLERK

NOTICE OF APPEAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, by Dorothy S.
Greenberg, for herself as well as for the
United States of America,

Plaintiff,

-against-

THE BURMAH OIL COMPANY LIMITED, BURMAH OIL
INCORPORATED, BURMAH OIL TANKERS LIMITED,
BETHEL MARINE, INC., SOUTHHOLD MARINE, INC.,
VERMONT MARINE, INC., BURMAST EAST SHIPPING
CORP., BURMAH GAS TRANSPORTATION LIMITED,
ELIAS J. KULUKUNDIS, SUMMITT MARINE OPERA-
TIONS, INC., SUMMIT I INC., SUMMIT II, INC.,
SUMMIT III, INC., CHEROKEE I SHIPPING
CORPORATION, CHEROKEE II SHIPPING CORPORATION,
CHEROKEE III SHIPPING CORPORATION, CHEROKEE
IV SHIPPING CORPORATION, CHEROKEE V SHIPPING
CORPORATION, ENERGY TRANSPORTATION
CORPORATION, C. Y. CHEN, JOSEPH J. CUNEO,
JEROME SHELBY, CRYOGENIC ENERGY TRANSPORT,
INC., LNG TRANSPORT INC., LIQUEGAS TRANSPORT
INC., JAMES DURBIN, JOHN C. BULLITT, FIRST
NATIONAL CITY BANK, CITICORP LEASING, INC.,
GENERAL AMERICAN TRANSPORTATION CORP.,
GENERAL DYNAMICS CORPORATION, CITIMARLEASE
(BURMAH I), INC., CITIMARLEASE (BURMAH LNG
CARRIER), INC., CITIMARLEASE (BURMAH LIQUEGAS),
INC. and CITICORP.

Defendants.

NOTICE OF APPEAL

76 Civ. 4351 (WK)

FILED
U.S. DISTRICT COURT
S.D. OF N.Y.
JAN 19 1 47 PM '77

S I R S :

NOTICE IS HEREBY GIVEN that the Plaintiff-Relator
Dorothy S. Greenberg, hereby appeals to the United States Court of
Appeals for the Second Circuit from the order and final judgment
dated January 6, 1977, and entered in this action on January 10,
1977, dismissing this action for lack of jurisdiction.

Dated: New York, New York
January 19, 1977

LIPPER, LOWE & DANNENBERG and
BURTON L. KNAPP

By:

Rild B. Dannenberg
A Member of the Firm
747 Third Avenue
New York, New York 10017
(212) 759-1504

and

NEWMAN, SHOOK & NEWMAN, P.C.
4330 Republic National Bank Tower
Dallas, Texas 75201
(214) 747-9091

Attorneys for Plaintiff-Relator
Dorothy S. Greenberg

TO: Clerk
United States District Court
Southern District of New York

ROBERT B. FISKE, JR.
United States Attorney for
the Southern District of
New York
Attorney for United States
of America
One St. Andrew's Plaza
New York, New York 10007

CAHILL GORDON & REINDEL
80 Pine Street
New York, New York 10005
Attorneys for Defendants
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Citicorp Leasing Inc.,
Citimarlease (Burmah I),
Inc., Citimarlease (Burmah
LNG Carrier), Inc. and
Citimarlease (Burmah
Liquegas), Inc.

PAUL, WEISS, RIFKIND, WHARTON
& GARRISON
345 Park Avenue
New York, New York 10022
Attorneys for Defendants
Summit Marine Operations, Inc.
Summit I Inc., Summit II, Inc.,
Summit III, Inc., Cherokee I
Shipping Corporation, Cherokee
II Shipping Corporation,
Cherokee III Shipping Corpora-
tion, Cherokee IV Shipping
Corporation, Cherokee V
Shipping Corporation, Energy
Transportation Corporation,
C.Y. Chen, Joseph J. Cuneo,
Jerome Shelby, Cryogenic Energy
Transport, Inc., LNG Transport
Inc., Liquegas Transport Inc.

SIMPSON THACHER & BARTLETT
One Battery Park Plaza
New York, New York 10004
Attorneys for Defendants
The Burmah Oil Company
Limited, Burmah Oil
Incorporated, Burmah Oil
Tankers Limited, Bethel
Marine, Inc., Southhold
Marine, Inc., Vermont
Marine, Inc., Burmah Gas
Transportation Limited

HUGHES HUBBARD & REED
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New York, New York 10005
Attorneys for Defendant
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portation Corp.

DONOVAN LESIURE NEWTON &
IRVINE
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New York, New York 10020
Attorneys for Defendant
General Dynamics
Corporation

NATHANIEL R. RUVELL, ESQ.
One World Trade Center
Suite 5215
New York, New York 10048
Attorney for Defendant
Elias J. Kulukundis

FRIED, FRANK, HARRIS, SHRIVER
& JACOBSON
120 Broadway
New York, New York 10005
Attorney for Defendant
John C. Bullit

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss .

Robert Bisulco, being duly sworn,
deposes and says that deponent is not a party to the action,
is over 18 years of age and resides at 123 1/2 Chrystie St.
NEW YORK, N.Y. 10002

That on the 21st day of MARCH, 1977,
deponent personally served the within JOINT APPENDIX (Volume II of
II - Pages A-280 - A-584)
upon the attorneys designated below who represent the
indicated parties in this action and at the addresses below
stated which are those that have been designated by said
attorneys for that purpose.

By leaving ONE ^{copy} true ~~copies~~ of same with a duly
authorized person at their designated office.

~~By depositing true copies of same enclosed~~
~~in a postpaid properly addressed wrapper, in the post office~~
~~or official depository under the exclusive care and custody~~
~~of the United States post office department within the State~~
~~of New York.~~

Names of attorneys served, together with the names
of the clients represented and the attorneys' designated
addresses.

ROBERT B. FISKE, JR.
U. S. Attorney for the Southern District of N. Y.
Attorney for Plaintiff-Appellee
One St. Andrew's Plaza
New York, N. Y. 10007

Robert Bisulco

Sworn to before me this

21st day of MARCH, 1977.

Michael DeSantis

MICHAEL DeSANTIS
Notary Public, State of New York
No. 03-0930905
Qualified in Queens County
Commission Expires March 30, 1979

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss .

ALLEN Q HAYES, being duly sworn,
deposes and says that deponent is not a party to the action,
is over 18 years of age and resides at 162 Navy Walk
Apt 6A Brooklyn N.Y. 11201.

That on the 22nd day of MARCH, 1977,
deponent personally served the within JOINT APPENDIX (Volume II
of II - Pages A-280 - A-584)
upon the attorneys designated below who represent the
indicated parties in this action and at the addresses below
stated which are those that have been designated by said
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~~of the United States post office department within the State~~
~~of New York.~~

Names of attorneys served, together with the names
of the clients represented and the attorneys' designated
addresses.

PAUL, WEISS, RIFKIND, WHARTON & GARRISON
Attorneys for Defendants-Appellees Summit Marine Operations, Inc.,
Summit I Inc., Summit II, Inc., Summit III, Inc., Cherokee I
Shipping Corporation, Cherokee II Shipping Corporation, Cherokee
III Shipping Corporation, Cherokee IV Shipping Corporation, Cherokee
V Shipping Corporation, Energy Transportation Corporation, C.Y.
Chen, Joseph J. Cuneo, Jerome Shelby, Cryogenic Energy Transport,
Inc., LNG Transport Inc., Liquegas Transport Inc.
345 Park Ave.
New York, N. Y. 10022

DONOVAN LEISURE NEWTON & IRVINE
Attorneys for Defendant-Appellee General Dynamics Corporation
30 Rockefeller Plaza
New York, N. Y. 10020

Allen Q. Hayes

Sworn to before me this

22nd day of MARCH, 19 77

Michael DeSantis

MICHAEL DeSANTIS
Notary Public, State of New York
No. 03-0930908
Qualified in Queens County
Commission Expires March 30, 1979

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss .

GLENN ISCOE, being duly sworn,
deposes and says that deponent is not a party to the action,
is over 18 years of age and resides at 2117 78th ST
JACKSON HEIGHTS, N.Y.

That on the 22nd day of MARCH, 1977,
deponent personally served the within JOINT APPENDIX (Volume II OF
II - Pages A-280 - A-584)

upon the attorneys designated below who represent the
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attorneys for that purpose.

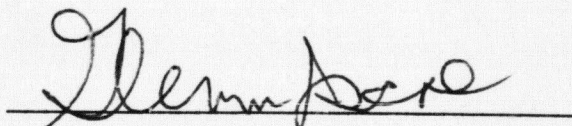
By leaving ONE ^{copy} true/~~copies~~ of same with a duly
authorized person at their designated office.

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~~or official depository under the exclusive care and custody~~
~~of the United States post office department within the State~~
~~of New York.~~

Names of attorneys served, together with the names
of the clients represented and the attorneys' designated
addresses.

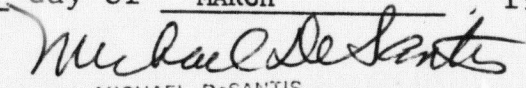
CAHILL, GORDON & REINDEL
Attorneys for Defendants-Appellees Citicorp, Citibank,
N.A., Citicorp Leasing Inc., Citimarlease (Burmah I),
Inc., Citimarlease (Burmah LNG Carrier), Inc., and
Citimarlease (Burmah Liquegas), Inc.
80 Pine St.
New York, N. Y. 10005

(FOR ADDITIONAL ATTORNEYS SEE FOLLOWING PAGE 2)



Sworn to before me this

22nd day of MARCH 1977.


MICHAEL DeSANTIS
Notary Public, State of New York
No. 03-0930908
Qualified in Queens County
Commission Expires March 30, 1979

SIMPSON, THACHER & BARTLETT

Attorneys for Defendants-Appellees The Burmah Oil Company
Limited, Burmah Oil Incorporated, Burmah Oil Tankers Limited,
Bethel Marine, Inc., Southhold Marine, Inc., Vermont Marine,
Inc., Burmah Gas Transportation Limited.

One Battery Park Plaza
New York, N. Y. 10003

HUGHES, HUBBARD & REED

Attorneys for Defendant-Appellee
General American Transportation Corp.

One Wall Street
New York, N. Y. 10005

NATHANIEL R. RUVELL

Attorney for Defendant-Appellee Elias J. Kulukundis
One World Trade Center - Suite 5215
New York, N. Y. 10048

FRIED, FRANK, HARRIS, SHRIVER & JACOBSON

Attorney for Defendant-Appellee John C. Bullit
120 Broadway
New York, N. Y. 10005

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss .

Robert Bisulco, being duly sworn,
deposes and says that deponent is not a party to the action,
is over 18 years of age and resides at 123 1/2 Chrystie St
NEW YORK N.Y.

That on the 21st day of MARCH, 1977,
deponent personally served the within JOINT APPENDIX (Volume I of
II - Pages A-1 - A-279)

upon the attorneys designated below who represent the
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stated which are those that have been designated by said
attorneys for th t purpose.

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authorized person at their designated office.

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~~in a postpaid properly addressed wrapper, in the post office~~
~~or official depository under the exclusive care and custody~~
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~~of New York.~~

Names of attorneys served, together with the names
of the clients represented and the attorneys' designated
addresses.

ROBERT B. FISKE, JR.
U. S. Attorney for the Southern District of N.Y.
Attorney for Plaintiff-Appellee
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Robert Bisulco

Sworn to before me this

21st day of MARCH, 1977.

Michael DeSantis

MICHAEL DeSANTIS
Notary Public, State of New York
No. 03-0930908
Qualified in Queens County
Commission Expires March 30, 1979